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**MANAGING A MURDEROUS IDENTITY: HOW MEN WHO
MURDER EXPERIENCE LIFE IMPRISONMENT AND THE
CONCEPT OF RELEASE**

Jenney Lee Clifford

A thesis submitted for the degree of Doctor of Philosophy

University of Bath

Department of Social and Policy Sciences

August 2010

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Abstract

In 1965 capital punishment for murder was abolished in the UK. The Mandatory Life Sentence (MLS) replaced it. The MLS is to this day a political sentence. This thesis examines the MLS in terms of law, policy, practice and management, and, considers through the discourse of prisoners and staff how men who murder experience life imprisonment and the concept of release. My research draws on in depth interviews with 18 prisoners who had experience of life in open conditions and 10 professionals. This thesis contributes to our understanding of the impact of long-term imprisonment, indeterminacy and the management of a murderous identity within open conditions and the community. Analysis of the data indicates that prisoners ascription of identities is based on their perceptions of the nature of the offence, risk, guilt and the appropriateness of the MLS. The prisoners through the implementation of spoiled, co-existing and intersecting identities mediated the impact of the MLS. The research also indicates that prisoner experience of life in closed prison did little to prepare them for the reality of open prison and life in the community. As they near the end of the sentence identities produced to cope with imprisonment become redundant. On or near release the challenge for them became how to implement and/or manage co-existing identities. My study considers how the MLS can be perceived as differentiating the prisoner from other indeterminate prisoners historically in terms of policy, in staff and prisoner's perceptions of practice and the MLS prisoner's reflections on their own identities. The findings also bring into question current policy and practice within open conditions and the opportunities available for MLS prisoners nearing release.

Abbreviations

CARAT – Counselling, Assessment, Referral, Advice and Throughcare

CJA - Criminal Justice Act

CJS – Criminal Justice System

CLAIT – Computer Literacy and Information Technology

DLP – Discretionary Lifer Panel

DLS – Discretionary Life Sentence

DPP – Detention for Public Protection

ECHR –European Court of Human Rights

ETS – Enhanced Thinking Skills

HMP – Her Majesty’s Prison

IPP – Imprisonment for Public Protection

LCJ – Lord Chief Justice

LSP – Life Sentence Plan

MAPPA – Multi Agency Public Protection Arrangements

MHA – Mental Health Act

MLS – Mandatory Life Sentence

MOJ – Ministry of Justice

NOMS – National Offender Management Service

NPS – National Probation Service

NVQ – National Vocational Qualification

PASRO – Prisons Addressing Substance Related Offending

PSI – Prison Service Instruction

PSO- (followed by number) Prison Service Order

PSO- Probation Service Officer

PRT – Prison Reform Trust

ROTL – Release On Temporary Licence

SOTP – Sex Offender Treatment Programme

Introduction

This thesis focuses on the identity of men who have murdered and are nearing the end of their Mandatory Life Sentence (MLS) in open conditions. The MLS is imposed only on those who are convicted of murder. This specific sentence differentiates murder from other forms of homicide within English law. This thesis is not examining why men have murdered or theorising the causation of crime and deviance. It investigates, explores and theorises the experience of life imprisonment drawing on interviews with men who have murdered and are nearing the end of their custodial period. This thesis considers how their legal separation as MLS prisoners is perceived (by MLS prisoners and staff) to transpose into the experience of life imprisonment and how the men have internalized this separation and ultimately acquired the identity of being a MLS prisoner.

This thesis is therefore reflecting and developing an understanding of prisoners' (and staff's) own perceptions of their sentence status as imposed by law and their identity as a result. I am not trying to determine to what extent these perceptions are true or not;¹ rather to examine the experiences and perceptions of these men as they recount their prison career and ultimate progression toward release within the context of the MLS.

The label murderer is one of society's most emotive. According to the Law Commission (2006: paragraph 2.19): 'The murder label is one of the highest moral and social significance... It is essential to the public perception and evaluation of the seriousness of homicide'. However, defining what 'murder' is is more problematic: 'In English law so many different things are called murder' (House of Lords Select Committee on Murder and Life Imprisonment 1989:12). Historically, there have been various attempts to introduce categories of murder into English law². The inherent difficulty of defining what murder is

¹ For example, if this thesis aimed to establish the difference between MLS prisoners and other life sentence prisoner's perceptions of themselves because of their distinct offence and sentence status, the project would have been designed differently. This would have involved a comparison with other life sentence prisoners in particular Discretionary Life Sentence (DLS) prisoners who had served a long term of imprisonment and how this had impacted on their identities.

² Report of Royal Commission on Capital Punishment (Cnd 8932, 1953) Appendix 12.

has produced on-going debate over the centuries³. Lord Hailsham in *R v Howe* (1987) exemplifies the difficulty:

Murder as every practitioner knows, though often described as one of utmost heinousness, is not in fact necessarily so... Recognising distinctions between serial killers, mercy killers...are not catered for under mandatory terms; all of which incorporate different degrees of deliberation

Despite the range of offences, which can be so classed, murder receives most attention from journalistic circles⁴. Society is subjected to coverage of murder by the media on an almost daily basis. The way the media portrays murderers often leaves no alternative for the public but to fear and loathe the perpetrator, reinforcing and confirming the imposed identity. For example, a populist tabloid⁵ ran a headline in 2006: 'How can they think of letting such a beast go free?' reporting on David McGreavy who killed 3 children aged between nine months to four years in horrific circumstances in 1973. He was purported to be one of the most dangerous men in Britain when sentenced. A reporter, 23 years later, had discovered that McGreavy was at an open prison and spending time in a hostel in the community. Such a headline fuels public outrage and raise questions regarding the meaning of 'life imprisonment' for men who murder. There is no mention in the article of rehabilitation, risk management or re-entry into society, the latter being fundamental to the Prison Service Statement of Purpose (2009):

Her Majesty's Prison Service serves the public by keeping in custody those committed by the courts. Our duty is to look after them with humanity and help them lead law abiding and useful lives in custody and after release.

With emotive cases such as the above, the public is reminded only of what occurred in the past. The most horrific circumstances are recalled; this type of reporting contextualises why the public have traditionally favoured a return to capital punishment (Dorling 2004, Mitchell 1998). Such reporting lends weight to the assertion that the individual is seen as nothing more than the 'perpetrator of the act'. As Dorling (2004) has commented, murder is a social marker, telling us more about society in general than the individuals who commit the act. It is through this imposed label and ascribed identity that the convicted murderer serves his⁶ unique sentence. Smith (1979:1) points out that for those outside the world of criminal justice, the mystique of interest in murderers is difficult to penetrate.

³ The earliest version, and most commonly cited definition of murder, was that of Sir Edward Coke (1552-1634): 'Murder is when a man of sound memory and of the age of discretion, unlawfully killeth...with malice aforethought...'

⁴ For research on homicide and infanticide see Brookman (2005 and 2006).

⁵ The Sun 02/01/06.

⁶ Throughout this thesis the reference will be to men and therefore the word he or his will be used.

The reality being: 'the murderer is quite often an unexceptional person who offers little threat to the community when eventually released from custody'.

Academically, the subject of murder and murderers has received little attention in comparison to media coverage. Studies have tended to focus on high profile cases (such as Neilson, Hindley, and other serial killers internationally see Diaz 2006). The social construction and identity of other murderers has received limited attention as most studies considering life imprisonment have combined all forms of homicide (Sapsford 1978; 1983). In chapter one I argue that the differentiation of the MLS prisoner is evidenced in their legal status; they are separated in law. Other studies have not considered how those serving a MLS have perceived the label 'murderer'; or how they perceive as a result of this act being regulated, monitored and controlled by the state until their death.

Whilst it is not the intention of this thesis to concentrate wholly on the legal peculiarities of the British criminal justice system, it is essential for the argumentation of this thesis to demonstrate the unique sentence imposed on those who murder and how this impacts on their identity. The complexity of the British legal system and sentencing for murder has been under the spotlight for many years. The abolition of capital punishment in 1965 introduced the MLS for murder - a non - negotiable sentence that is simple in delivery, complex in practice. Prior to the implementation of the MLS, life imprisonment per se averaged nine years (Hart 1957) and the expectation among supporters of abolition (see Morris 1989) was that the MLS would follow a similar pattern, as the only purpose of imprisonment after this period would be the protection of the public or the avoidance of a further expression of public indignation concerning particular offenders. The average life sentence since 1965 has been 14 years (Blom-Cooper 2004). The average length of a Discretionary Life Sentence (DLS) has remained at 11 years during the last 15 years⁷(Home Office and MOJ 1994-2009). However, Padfield (2002) found the average sentence length from 1990 -2000 was 15.91 years. This discrepancy is indicative of the difficulty in accessing consistent data.

As will be seen within this thesis many men serve beyond the minimum term imposed. The MLS is an indeterminate sentence. There is no guarantee of release. During 2004, the year

⁷ This is based on the first release of DLS prisoners from prison under life licence. (Home Office and MOJ 1994-2009).

this research commenced, there were 345 murder convictions in the UK, that figure rose to 386 in 2005, then reduced to 355 in 2008 (Ministry of Justice 2007). Despite media portrayals the crime of murder remains relatively low (see Brookman and Maguire 2003).

Why MLS Prisoners?

In order to contextualise why I wanted to undertake this study I am going to provide background information which will enable the reader to understand that this research does not emerge as a result of morbid curiosity, romanticism or any personal therapeutic need. I had trained as a social worker with a probation specialisation working predominately with offenders and prisoners in throughcare⁸ services during the 1990s. Later I went on to undertake teaching qualifications. From these experiences I decided to form a charity working with prison leavers in 2002. The background to the thesis emanates from an opportunity afforded me in 2002. I was approached by a senior manager within the probation service and asked to offer some form of constructive activity on a designated resettlement wing within a prison that was embarking on a change of status to accommodate male 'lifers'. I had been contacted, as the prisoner resettlement charity I had recently founded was establishing itself and word of mouth between professionals within the criminal justice system was beginning to prove successful. I was considered competent to undertake such an initiative within the prison as a result of my previous careers as outlined above. The choice of what activity I eventually offered was agreed with the Governing Governor and consisted of an educational package providing information on open conditions and life in the community.

Like most people, I had no idea what serving a life sentence actually meant, what offences warranted such a severe term of imprisonment and equally important what these men would be like as individuals. I therefore began researching the above areas, using non-academic literature⁹ and talking to experienced professionals within the field. After identifying the need to provide consistent information about open conditions and life in the community after release, together with any support opportunities available to life sentence prisoners, I designed a resettlement programme that incorporated these features. The work I was undertaking highlighted, albeit at a superficial level, the impact of long - term

⁸ Throughcare being the work in custody and through to the community with offenders sentenced to a custodial sentence.

⁹ Prison service education and resettlement programmes.

imprisonment and the perceived adjustment to institutional life. I have since 2002 been working successfully in this professional educative/resettlement capacity with men who are serving a life sentence for various offences.

The first two years of working with life sentence prisoners (2002-2004) introduced me to a world of imprisonment that was far removed from any I had experienced during my past career working with prisoners as an employee of statutory services. I found that I wanted to know more and more about their experience of incarceration and how they adapted and coped with their situation. Having worked in the field for some time and on the basis of conversations with prisoners generally and MLS prisoners in particular the preliminary conclusion I came to was that this particular crime, label and sentence and views within the prisoner community showed a distinctiveness and hence my interest in this particular sentence and prisoner. My attention was drawn to the prisoners who identified themselves as ‘murderers’ and who informed me they were ‘different’ to other lifers as they were ‘mandatory’. These differences were based on the law for murder and the perceptions the men had of themselves and those they perceived as ascribed to them by others. My assumption regarding the peculiarity of the sentence and identity of these prisoners was therefore not based on the literature but on my working relationship with MLS prisoners. As I developed my interest in these men as an apparently distinct group a decade ago, before the indeterminate sentence for public protection (IPP¹⁰) became prominent, this in part explains my interest in this topic. It may well be that MLS prisoners are no longer as distinct as they appeared to be in 2002 when I first started to develop the research. However, drawing on my interviews with MLS prisoners (see chapters six, seven and eight) I will argue that these men at time of interview continue to see themselves as a distinct group and develop their identities accordingly.

Existing Research

One of the reasons this area of research is important is the difficulty in accessing relevant previous and current research. There are no studies on MLS prisoners as a group in their own right, which consider how they cope with the imposition of the MLS and live through the experience up to the point of release. The topic has been approached in the literature in Britain under an all-encompassing category of serious offences resulting in long-term

¹⁰ The IPP was introduced as s225 of the 2003 Criminal Justice Act in response to being seen as ‘tough on crime’ by the then Home Secretary David Blunkett (see chapter one footnote x for full details)

imprisonment (see Cohen and Taylor 1972; Sapsford 1978 and 1983) International research available in English has also not separated MLS prisoners into a distinct group worthy of study (see Flanagan 1979, 1980, 1981, 1982, 1991 and 1992). Further to this there has been a limited amount of British research on prisoners in open prisons (see Banks 1975 and Jones 1977). These omissions are perhaps indicative of the low priority politicians, researchers and funding bodies place on MLS prisoners as people.

The views of prisoners have been omitted in all but biographical accounts (see McVicar 1974 and Boyle 1977) as well as limited reference in criminological and sociological circles (see Schmid and Jones 1991). Shover (2004: vii) emphasises this point: 'While imprisonment is a commonplace occurrence in the lives of street criminals, empirical interests in its long-term and cumulative effects has rarely sustained for long the attention of investigators'. The lack of knowledge was acknowledged as early as the 1960s in the Radzinowicz Report (1968:71): 'Practically nothing is known about the vital subject of the lasting effects on human personality of long term imprisonment, yet pronouncements on the subject continue to be made and very long prison sentences continue to be imposed.' Since the Radzinowicz Report many studies have taken place regarding the impact of long-term imprisonment such as those by Banister et al (1973 and 1974), Sapsford (1975, 1978 and 1983), Heskin et al (1973 and 1974) and Flanagan (1979, 1980, 1981, 1982, 1991 and 1992) (see chapter 3). The imposition of long prison sentences remains today. What has yet to be explored in the literature is how the prisoners' identity is constructed by the MLS prisoner and professionals through the imposed label and ascribed identity as MLS and murderer. However, as a result of serving very long periods of imprisonment the sense of identity held by the prisoners in this study and their perceptions of others' views of them can reflect attitudes and perceptions that may have been much stronger earlier in their prison career, prior to the increase in concerns regarding risk in general and sex offenders in particular (see chapter two and six).

Aims and Objectives

The aim of this study was to examine and investigate how a MLS for murder impacts on a male prisoner's identity. My key objectives were:

1. To examine the MLS – law policy and perceptions of practice.
2. To theorise and investigate the impact of a MLS through the discourses of professionals and prisoners.

3. To examine how men who have served a MLS for murder approach release.
4. To contribute to prison research concerning the impact of imprisonment on the identity of the MLS prisoner nearing the end of his 'tariff' and debate on the efficacy and justice of the MLS at a time of growing use of indeterminate sentences.

In order to achieve the aim and objectives, the study draws on in-depth interviews with eighteen MLS prisoners who were in, or had experienced, open prison and ten professionals working in open prison.

Thesis Outline

Chapter one of the theses provides the foundations for my research aims and objectives. It traces the history of the MLS and the legal and political peculiarities of the sentence. The chapter chronologically charts the MLS, examining tariff, sentence length and political intervention from 1965-2003. The political climate in which the MLS is maintained is a recurring theme throughout this chapter. The chapter examines evidence calling for the abolition of the MLS and changes to sentence administration, arguing that resistance to change is firmly rooted in public and political acceptability. The most recent review of the law for murder by the Law Commission (2006) is also considered. Sentence management is addressed and what this involves for prisoners from a policy and practice perspective, together with the concept of the life licence.

Chapter two examines the concept of the dangerous offender and the precarious position of MLS prisoners within these debates. A detailed discussion of the move from the dominant discourse of rehabilitation to risk management is considered within the context of actuarial justice. The evidence presented in chapter one is drawn on in chapter two, in that the notion of punishment prevails as opposed to dangerousness and risk. I argue that MLS prisoners are detained on the basis of the label murderer rather than their individual characteristics denoting dangerousness. The chapter then considers the purpose, function and rationale of open prison. Attention is paid to how risk and danger are conceptualised within this environment for MLS prisoners (including sex offenders who have murdered). The underlying theme of chapters one and two is the argument relating to the differentiation of MLS prisoners from other life sentence prisoners in relation to identity and indeterminacy.

Chapters three and four review qualitative and quantitative research pertaining to the impact of imprisonment and identity on long term prisoners in order to provide an analytic framework for this study. Chapter three identifies the difficulties long-term prisoners experience regarding coping and adapting to imprisonment, relationship maintenance and consequently the impact on identity. Chapter four continues and develops this theme. The dual purpose of chapter four is to provide a theoretical framework on identity as proposed by key theorists such as Goffman (1959,1961,1963) on spoiled identities and impression management and Foucault (1977, 1981) on identity and power and to relate these to research on prisoners. The work of these authors is insufficient to explain the identities of the men interviewed, so I have drawn on the work of intersectionality theorists and developed the notion of co-existing identities to fill this gap.

Chapter five considers how the research aims and objectives were carried out, access gained to institutions and the main method of data collection. I will advise the reader at this point a high percentage of the prisoners in this study were classed as sex offenders (eight men). Consideration is also given to sensitive research and ethics. The chapter will discuss how the data was analysed and the dominant theme(s) arising.

Chapters six to eight present the main findings of my study. These chapters do not tell a linear story, but rather start with the present and gradually weave the story back to closed conditions and the initial sentence. The narratives talk of ‘lifers’ it is important for the reader to be clear that when the prisoners and staff use the term ‘lifer’ they are only referring to mandatory life sentence prisoners, and, likewise when they use the term ‘killer’ they are only referring to the crime of murder.¹¹ Thus, chapter six considers the current experience of the MLS prisoners and staff in open conditions. Policy and practice matters are examined and the chapter argues that the experiences of the men in open prison did not meet prior expectations and preparation for open prison was sporadic. The prisoner’s ability to cope with the situation was dependant on their managing identities and the impact of indeterminacy. The chapter presents evidence of how identities are constructed by both staff and prisoners. Managing identity can be problematic in open prison; staff perceptions and classifications confirm research identified within chapters three and four.

¹¹ This was confirmed prior to and during the interview process.

However, the chapter argues the presentation of identities serves differing purpose than previously indicated by the literature cited within chapters three and four. The MLS prisoner presents specific difficulties for staff personally and professionally in these areas, which impact on the prisoner remaining in open prison and progressing toward release.

Chapter seven examines how identities are perceived and managed by prisoners and staff in open prison and the community. The chapter considers the impact of intervention and therapy and the management of identities within closed prison together with their relevance in open prison. Within this chapter consideration is given to the possibility of straddling the paradigms of dominant discourses and the ability of the prisoner to move from and between rehabilitation and risk management, as well as the identity this imposes on the incumbent. The impact of imprisonment and indeterminacy on relationships is considered, drawing on previous research including Flanagan (1981 and 1991) Richards (1978) and Sapsford (1983). The accounts provided both confirm and refute their findings. The narratives provide evidence of the difficulties of maintaining and developing relationships and friendships from open prison. The concept of a 'MLS community' emerges. The chapter argues that the impact of imprisonment, indeterminacy and the MLS on the self and others is dependant on the prisoner's ability to manage identities in the present and future.

Chapter eight reflects the issues introduced in chapter one. The aim of the chapter is to examine the MLS from the perspective of the prisoners and staff. The deservedness of the sentence, the political emphasis and alternative sentences are considered. The perceptions of the prisoners and staff highlight the continued differentiation of the MLS prisoner in comparison to other indeterminate sentence prisoners.¹² The chapter examines the training staff received regarding working with MLS prisoners in open conditions and how this translated into their practice. The complexity of the MLS is demonstrated from the lived experience of the prisoners and staff; reinforcing policy and practice inconsistencies.

Chapter nine summarises my research and concludes the study. This chapter reappraises the literature, considers the analytical approach and reviews the key findings from the analysed data. The findings suggest the centrality of the MLS identity as the key feature in

¹² Such as Discretionary Life Sentence Prisoners and those imprisoned for public protection; both of which are discussed in ensuing chapters.

the identities of the men interviewed for this research and I argue that the prisoners' management of spoiled, co-existing and intersecting identities in response to life imprisonment both aid and hinder their progress and ultimately release. The implications of my findings are discussed with reference to the theoretical perspectives and then I make recommendations for future research, policy and practice changes.

“You can’t have a standard of life, hanging is more humane” (Sam¹³)

Chapter One: Murder and the MLS

1.1 Introduction

The aim of this chapter is to present to the reader the identifying features of the MLS. The MLS comprises three stages, the tariff, post tariff detention and life licence. Alongside these three phases are three elements running conterminously; acceptability, punishment and risk. I stated in the introduction of this thesis why I chose to study MLS prisoners - this being based on my experience of working with them and how these men viewed themselves as ‘different’ to other life sentence prisoners. I will commence this chapter by problematizing the MLS within this context. This chapter will chronologically chart the MLS and will examine the tariff, sentence length and the unique political intervention afforded to the MLS from 1965-2003. The chapter will provide a brief discussion on life sentences and then will consider the emergence of the MLS as a result of the abolition of capital punishment. The concept of due process,¹⁴ whereby the administration of justice and the deprivation of liberty is in accordance with appropriate legal procedures and safeguards, will be considered within this chapter, demonstrating that the MLS prisoner did not receive such considerations until interventions from the European Court Of Human Rights (ECtHR) over thirty years after the implementation of the MLS. Consideration will be given to the release and recall of MLS prisoners and will examine the growth of the MLS prison population. The chapter will also examine evidence calling for the abolition of the MLS and changes to the sentence administration. The most current review of the law for murder is considered. The final part of the chapter will address sentence management and what this involves for prisoners from a policy and practice perspective and the concept of life on licence.

1.1.1 Problematizing the MLS

This thesis is based on the perceptions of men who have murdered and how they have experienced life imprisonment as a result. These perceptions relate predominately to their identity and consequently how they perceive others and others’ perceptions of themselves both whilst in prison and in the community. Historically, changes in legislation for life sentence prisoners have taken place more readily in favour of Discretionary Life Sentence

¹³ At the start of each chapter I will be using a quote from my interviews with prisoners that help set the scene for the chapter.

¹⁴ Due Process originates from the Magna Carta and rules that individuals shall not be deprived of life, liberty or property without notice and an opportunity to defend themselves and they should have appropriate legal procedures and safeguards in place.

(DLS) prisoners, who like MLS prisoners serve an indeterminate sentence. For DLS prisoners the concepts of risk and danger, the factors underpinning the imposition of the sentence, will ultimately determine their release. The men who took part in this study had served on average 17 years of imprisonment. The longest serving participant had been in prison for 28 years. It is therefore important for the reader to appreciate that during their custodial period the policies, practices and laws relating to life imprisonment have changed considerably, albeit slowly for the specific crime of murder. Within the life sentence population the MLS prisoner has exceeded the DLS prisoner in terms of number and sentence length (see section 1.3.1). The rapid growth of indeterminate sentences following the introduction of the 2003 Criminal Justice Act (CJA) has emphasized the rise in concern pertaining to risk, particularly risk around sexual offending. The changing populous of the long-term prison population is something that MLS prisoners are becoming immersed within. Therefore, although in chapters 6-8 I draw on interview evidence to argue that laws, policies and perceptions indicated to the men that they were a 'special' group of prisoner, this context is changing. These factors will be traced within this chapter.

In the findings chapters of this thesis I will draw on interview evidence to argue that the perceptions the men in this study had of themselves, and their sentence, is often framed within an earlier time period whereby differing attitudes and opinions prevailed. It will be suggested that these attitudes and opinions have formed the basis of how they see themselves, inform as to the impact of indeterminacy, and, the management of a murderous identity both within custody and in the community.

1.2 The Life Sentence

The Life Sentence in Britain has a long history dating back to 1800s, when a judge was allowed to pass such a sentence on a convicted offender for an offence imprisonable for life such as burglary or theft. The Discretionary Life Sentence (DLS) was developed as a preventative measure for detaining unstable mentally ill and dangerous offenders during the 1950s. Such a sentence is passed on those who have committed a very serious offence and where there is concern that the risk posed by the offender is so great that a long unfixed custodial term is required. The indeterminate life sentence was preferred to long fixed term sentences as review and release could occur at earlier stages if progress was made. Alternatively detention beyond the period would serve as a punishment if the offender was still deemed to be dangerous. Life sentence legislation reflects the necessary

preoccupation with risk and dangerousness. These concepts, alongside actuarial justice - the concern with techniques for identifying and classifying groups according to dangerousness, have informed the debate regarding the imposition of life sentences (see chapter 2). The Advisory Council on the Penal System (1978) listed 50 offences that carried a DLS including manslaughter¹⁵. A DLS is at the discretion of the judge, unlike murder where the MLS is the only sentence available. The MLS for all categories of murder, although introduced in 1965, has a long and complex background (see appendix 1). The reader should be aware that it was never the case that all convicted murderers would suffer death by hanging; some sentences were commuted to life imprisonment (see Gibson and Klein 1969). Therefore the prison system has always contained a proportion of 'lifers' who would at some stage be released from prison. The safeguard for the public would be the release on licence and the recall to prison if concerns were raised regarding the behaviour of the person. The provision for such release originates under the 1948 Criminal Justice Act (CJA) s57. This put on a statutory footing ministerial power to release lifers on licence and recall them to prison:

The Secretary of State may at any time if he thinks fit release on licence a person serving a term of imprisonment for life subject to such conditions as may be specified in the licence and the Secretary of State may at any time, modify or cancel any such condition.

The involvement of senior Ministers in the administration of the life sentence, release and recall has a long history. Ministerial involvement will, hereafter, be referred to as the 'Executive'.

1.2.1 Amending the Law for Murder

In February 1956, parliament passed a motion whereby the death penalty for murder should be retained but the law for murder amended. The continued need to reflect on and modify the law of murder continued over the next 40 years and will be examined within subsequent sections of this chapter. The 1957 Homicide Act altered the sentencing of murder by abolishing the death penalty which until then followed any conviction for murder - the exception being those aged below 18 years, pregnant women and those who had bestowed upon them the Royal Prerogative of Mercy, for whom the punishment became life imprisonment (see Gibson and Klein 1969). The death penalty remained in force for the act of capital murder and restricted capital punishment in murder cases to five

¹⁵ Sexual offences are also included.

types: murder in the course or furtherance of theft; murder by shooting or causing explosions; murder while resisting arrest or during an escape; murder of a police or prison officer and two murders committed on different occasions.

The Homicide Act (1957) in effect established lesser categories of homicide that would previously have been punished by a determinate sentence. In reviewing the modern history pertaining to the law of murder, the Law Commission 2006 (see section 1.5) believed that when parliament passed the Act they never intended a killing to amount to murder unless the defendant realised that his conduct might cause death. The Act introduced the concept of a conviction for manslaughter whilst accepting diminished responsibility¹⁶, replacing the insanity plea¹⁷. Although The Homicide Act was an important mark toward the abolition of capital punishment in its entirety, it is not without criticism. Blom-Cooper and Morris maintain that the 1957 Homicide Act ‘ranks as one of the most unsatisfactory examples of legislation affecting criminal justice in the twentieth century’ (2004:63). The distinction between capital and non-capital offences is cited as the most problematic, alongside what kind of killing is worse than another and thus deserves a greater punishment.

Blom-Cooper and Morris contend the 1957 Act succeeded in ‘the sense it pleased no one’ (2004:67). It was complex and inflexible. Trying to define exactly how many murderers entered the prison system and avoided execution is problematic. It is almost impossible to determine who would have been reprieved, pardoned or transferred indefinitely for psychiatric detention. Therefore any attempt to project the lifer prison population as a result of the Act was equally problematic. It would be a further eight years before the abolition of capital punishment for all categories of murder became law in Britain.

1.2.2 The Abolition of Capital Punishment

On the ninth of November 1965 The Murder (Abolition of Death Penalty) Act was implemented in Britain. The Act is often referred to as ‘the pact with parliament’ as at the time there was widespread belief that abolition of capital punishment would result in life imprisonment for ‘an exceptionally long time’ (Blom-Cooper and Morris 2004:93). The rationale was to appease the public so that murder would remain unique among crimes and

¹⁶ s2 Homicide Act 1957.

¹⁷ The defendant would not be guilty of murder if the killing occurred while suffering an abnormality of mind.

a unique sentence as part of the 'pact' - Mandatory Life - would be imposed. At the time no consideration was given to defining life imprisonment. The assumption was 'life' as opposed to 'death' would follow the same pattern of imprisonment as for those who had escaped death under the 1957 Act.

During the passage of the 1965 Act an amendment was passed giving judges the power to recommend the minimum period of life imprisonment before release would be considered. It is interesting to note that, during the period 1965-1968, judges used this power in only seven percent of cases (Legal Research Unit 1957-1968). The choice of discretion indicates how difficult it was for judges to determine what would be an appropriate length of custody both legally and morally; morally in terms of appropriate punishment for the perpetrator as well as being seen to deliver justice for the victim, family and community. The question of who should determine the length of sentence has remained controversial over the years and has been the distinguishing feature of the MLS. This will be examined in subsequent sections 1.3, 1.3.1 and later chapters.

Prior to implementation of the Murder Act, Padfield (2002) points out that there was considerable support for making the life sentence for murder discretionary. However, in order to achieve passage of the Death Penalty Abolition Bill the compromise made was to make the life sentence mandatory¹⁸. The dismissal of the DLS for murder can be attributed to two factors; distinguishing murder as quintessentially heinous and maintaining public confidence by imposing an unquestionably inflexible sentence regardless of circumstance as an alternative to death. Blom-Cooper and Morris (2004) correctly maintain that politicians reconfigure the original debate relating to abolition. The 'Pact with Parliament' has been used by successive governments and committees to justify the continued use of the MLS for murder: 'the simplistic substitution of the MLS for the brutal penalty of hanging...made possible, unwittingly, a return to a punitive approach to the penalty of murder' (Blom-Cooper and Morris 2004:100).

¹⁸ Section 1 of the Act provides: 1. No person shall suffer from death for murder, and a person convicted of murder shall, subject to subsection (5) below be sentenced to life imprisonment. 2. On sentencing any person convicted of murder to imprisonment for life the court may at the same time declare the period what it recommends to the Secretary of State as the minimum period which in its view should elapse before the Secretary of State orders the release of that person on licence under section 27 of the Prison Act 1952 (s 21 of the Prisons (Scotland) Act) (quoted by Padfield 2002:5).

The Act abolished the death penalty for all categories of murder and was seen in 1965 as: ‘A liberalising measure which is now generally regarded by lawyers, judges, politicians and academic observers as an unjust irrational anachronism’ (Livingstone and Owen 1999:366). The Murder Act and the introduction of the MLS created a system that paralysed the judiciary. The inflexibility of the Act is exemplified when trying to distinguish between the various types of murder that occur where the consideration of aggravating and mitigating circumstances surrounding the murder are of no concern when passing the only sentence available.

The Murder Act 1965 changed the nature and significance of life imprisonment within England and Wales. An unpublished report by the Home Office Study Group on Life Imprisonment (1965) looked at the likely consequences of the Homicide Act 1957 and of the abolition of capital punishment. They attempted to project the likely increase over the lifer population of 133 in 1957. They concluded that an estimate of 600 would be excessive. Table 1.1 shows the average annual adult male prison population and Table 1.2 the average annual adult male prison population, the total lifer population, MLS receptions into custody and other life sentence receptions into custody at five yearly intervals from 1965¹⁹. As can be seen in Table 1.2 there has been a steady rise in the number of all lifer receptions from 1995 culminating in the most marked increase in 2005 as a result of the 2003 CJA (see section 1.4).

Table 1.1 The Average Annual Adult Male Prison Population five-year intervals from 1965

<i>1965</i>	<i>1970</i>	<i>1975</i>	<i>1980</i>	<i>1985</i>	<i>1990</i>	<i>1995</i>	<i>2000</i>	<i>2005</i>
29,580	38,040	38,601	40,748	44,701	43,378	48,983	61,252	69,971

(Source Home Office 2004-2009)

¹⁹ See appendix 2 for tables showing murder convictions and offences originally recorded as murder 1992-2008.

Table 1.2 Adult Male Prison Population, Lifer Population MLS and Lifer receptions per annum at five yearly intervals from 1965

Year	Adult Male Convicted Prison Population	Total Population	'Lifer' Population	Receptions of prisoners per annum	Receptions of MLS Lifers per annum	Receptions of all Lifers per annum
1965	29580	413		61		76
1970	38040	749		99		134
1975	38601	1176		110		160
1980	40748	1625		178		222
1985	44701	1800*		134		213
1990	43378	2704		217		229
1995	48983	3176		134		264
2000	61252	4385		238		470
2005	69971	6281		386		1050

Source Home Office/ NOMS Case load Statistics/ MOJ 2004-2009 (* = data available as of end of 1984)

These figures are for convictions for murder; other crimes of homicide may have been downgraded from murder to manslaughter prior to the final sentencing decision, therefore attracting a different sentence. The difference between the many cases of murder is not differentiated in law at point of sentence, leading many academics, politicians and lawyers to argue for change. It could be argued that the varying types of murder are considered distinguishable by the public in as the same way as a mercy killing receives less vilification and condemnation than the sexual assault and killing of a child. The call for change to the law has not been without resistance from political parties of all persuasions, all of whom have insisted on the unique nature of the offence of murder, and hence that the supposed unique nature of murderers justified the severest sentence available. The various reports produced and committees established that have called for changes to the law with regard to murder and the MLS will be considered chronologically within this chapter. They will also contribute to the discussions outlined within the ensuing sections when examining the peculiarities and administration of the MLS. The political involvement of the Executive and the dominance of such involvement in the administration of the MLS have set the sentence apart from all others.

1.3 The History of Tariff Setting

The purpose of the tariff is to determine what duration of sentence is required to satisfy the need for retribution (punishment), general deterrence and risk containment; the guiding principles pertaining in general to life sentences. At the time of implementation of the Murder Act (1965), the period of time spent in custody or the 'tariff' was to be set by the Home Secretary or a Home Office Minister – 'the Executive' - as soon after conviction as possible. The views of the trial judge, the only person to have heard all the evidence in the

case including mitigating and aggravating circumstances were sought, alongside those of the Lord Chief Justice (LCJ).

The involvement of the Home Secretary in setting the tariff and determining sentence length was a means of inspiring public confidence, promoting public safety and restricting prisoner release as much as promoting a reflection of public concern to ensure justice for murder. The underlying logic of the Executive was that if the public were discontented with the process, the Home Secretary would be held responsible. The tariff for MLS prisoners up until 1992 was not set in open court at the time of sentencing. It was done in secret despite the clarity set out in S1 (2) of the Act stating ‘the judge to declare in open court the minimum period that he thought should elapse before release on licence was authorised’ (Livingstone and Owen 1999:369).

The involvement of the Executive in this way is questionable, firstly in terms of equality with DLS prisoners who were allowed to know the tariff in open court and secondly in terms of the shroud of secrecy in setting the tariff behind closed doors. The men in this study were sentenced under this uniquely mysterious process, some serving over five years before knowing their tariff and one whose tariff had expired before he knew the term. Padfield (2002:6) noted secrecy in MLS tariff setting continued well into the 2000s.

Once the tariff was set the MLS prisoner had no right to know the judicial view on the tariff, nor if the Executive had decided to depart from that view either by increasing or decreasing the recommended term of imprisonment. The tariff was often set considerably higher than the sentencing judge recommended (see Padfield 2002) - a move to arguably appease the electorate and strengthen their political commitment to law and order policy. As the United Nations so aptly states: ‘Life sentence prisoners can find their time in prison extended not because of their behaviour but because of political pressure to be tough on criminals’ (United Nations 1994: 12).

1.3.1 Sentence Length

The tariff and sentence length have been a cause for concern since the early 1960s. During the abolition debate, calls for ‘life to mean life’ were rejected. Lord Windlesham (1993:645) described the bewilderment facing life sentence prisoners regarding sentence length, confirming his earlier assertion ‘the paradox now posed by life imprisonment is

that it is neither a sentence for life nor a genuinely indeterminate term' (Windlesham 1989:255). Social protection and rehabilitation will in many cases become determining factors in the length of sentence served by murderers (see chapters 2, 6, 7, 8).

Within the general public there remains an expectancy that 'life is for life' particularly for those who commit the most heinous of murders. Mitchell (1998), when conducting a survey into the public's perception of homicide, concluded that most respondents preferred a life sentence in the most literal of terms in accordance with the worst murder case scenarios they were asked to judge. However, Dorling (2004) contends that the majority of people in Britain have traditionally favoured a return to the death penalty for the perpetrators of murder.

Prior to the Homicide Act 1957 a murderer whose death sentence had been commuted to 'life' very rarely served a period of more than 15 years with the average period being nine years (Hart 1957). As already discussed, life did not mean life prior to 1957 nor beyond 1965 and therefore the term 'life imprisonment' was a misnomer in the majority of cases, unless the defendant was defined as highly dangerously insane when detention would be until death and served in a mental hospital (see chapter 2).

Parliament, when legislating the life sentence as the uniform sentence for all murder in 1965 did so with the knowledge that the sentence did not order lifelong detention as punishment for any particular individual murder. If life were ever intended to be for life, there would have been no necessity for s1 (2) of the 1965 Act (see section 1.3). The question of sentence length was inextricably linked to matters relating to release. The consideration of release and recall was formalized in the 1948 CJA. According to political commentators of the time (see Blom-Cooper and Morris 2004) it was under the expectation that the lifer would be released after serving a *predetermined* number of years, but even then as a minimum and release after tariff was to depend mainly on the risk posed.

1.3.2 The Release of MLS Prisoners

As a concession to those who feared any excessive leniency was bestowed upon murderers who would no longer hang, the 1965 Murder Act obliged the Home Secretary to consult with the LCJ and trial judge if available before releasing any MLS prisoner on licence. This reconfirmed and increased the Executive power bestowed under the 1948 CJA. The

Murder Act (1965) acknowledged public concern when considering the release of life sentence prisoners:

It must always be remembered that the released prisoner has committed *murder*, and that his conduct must in the interest of public security be supervised until it is shown that he has re-adapted himself to normal life, and is no longer a danger to the community.’ (Templewood, The Rt Hon. Viscount 1951:7)

The sentiments expressed by Lord Templewood have not changed today. The MLS prisoner returns to the community with the knowledge that he will be viewed as a murderer (see chapters 6 -8). It could be argued that those deemed ‘dangerous’ (see chapter 2) face as great a stigma. A further contention is that the label ‘murderer’ and the construction of such an identity whether dangerous or not precedes any other identity. This leads back to the argument that the MLS is designed to differentiate and punish, regardless of any danger posed in the past or perceived in the future. North American studies (see Jamieson and Grounds 2005) have shown that lifers avoid returning to their own communities to circumvent revealing the past for this reason.

1.3.3 The Creation of the Parole Board

Within two years of the abolition of capital punishment the 1967 CJA established the Parole Board under Schedule 2. s62. The whole process of dealing with lifers in general would become more streamlined and have a supposed newfound element of independence. However, Maguire (1992:179) found ‘...its procedures have always reflected a tendency to place administrative convenience above the requirements of ‘justice’, and it has been subject several times to manipulation by Home Secretaries’; as will be seen within the following sections of this chapter. The Parole Board was to include at least one person who had or was holding judicial office. In the House of Commons debate in 1966 Lord Hailsham stated²⁰:

We do not think that either release on licence or revocation of licence once granted should be ultimately in the hands of one man, even if he is Home Secretary.... Although a Parole Board is not necessarily a judicial ...function, we think that there is a quasi judicial element in it, especially as involving the right of the individual who is in prison or whose licence is subject to revocation... to be heard by a body whom he can reasonably expect to be impartial’ (House of Commons Debates Vol 738. Col.78).

The 1967 CJA imposed a duty on the Parole Board to advise the Home Secretary on the

²⁰ The importance of this quote is now evident; the Parole Board today is considered to be a judicial body.

exercise of his discretion to release life sentence prisoners on licence. At the same time the Home Secretary was required to consult the Board before releasing lifers. He could not do so without a favourable recommendation from the Parole Board but he was not obliged to follow that recommendation or indeed the advice of the Board. The collective wisdom referred by Lord Hailsham was in effect eroded. The Parole Board in 1970 was aware of its 'sentencing character' in relation to lifers. The difficulties of defining sentence length in terms of retribution (punishment) again become evident; justifying parole became enmeshed in whether the amount of time served was appropriate for the crime.

The advice of the Parole Board was not sought until the Board conducted its first review of a prisoner's progress, ordinarily after seven years in custody. Unless there was a positive release recommendation the judges' view would not be sought. In 1972 the Joint Committee of Home Office and Parole Board was established with the aim of creating a more discriminating procedure for reviewing lifers and assessing all lifer cases after four years in custody prior to fixing the first Parole Board Review. If at this early stage it was not appropriate to review, a further date would be set for the future. The importance of these moves is the emergence of the crucial distinction between setting a date for release and setting a date for first considering release²¹. The matter of the release of lifers remained (on paper) with the Parole Board and the first Parole Board Report (1969:23) stated: 'Those under the sentence of life imprisonment present the Board with a particularly heavy responsibility, for unless a positive recommendation to release is made they remain in custody indefinitely'.

The newfound responsibility of the Parole Board, recommending the release of MLS prisoners was beginning to emerge. The question of the potential to re-offend once released and the subsequent recall into custody weighed heavily with the Board. The answer to the problem was resolved by S.62 of the 1967 CJA. The power of recall was effectively left to the Secretary of State. Executive dominance would remain for the foreseeable future. The administration of the MLS drifted along without any radical change or intervention or public statement from the Executive until 1983.

²¹ See Lord Musthills *Ex p Doody* [1994] 1 AC 531 at 552F-H).

1.3.4 The MLS 1983-1991

In 1983 the then Home Secretary Leon Brittan, announced radical changes relating to the release of prisoners on parole and licence resulting in ‘the creation of a completely new philosophy and practice for the release of life prisoners on licence’ (Lord Musthill 1994). The Joint Committee of Home Office and Parole Board was disbanded and the function of fixing the first review date by the Parole Board would now fall to the Home Secretary who would set the date after consulting judges on the requirements of deterrence and retribution. The review would normally take place three years prior to expiry of the tariff and was seen to be an adequate amount of time in which to prepare for release should the Parole Board recommend it. The progress of the prisoner was kept under regular review by the Home Office. In certain cases and types of murder the prisoner would not be considered for release until 20 or more years had been served. The power vested in the Home Secretary was rationalised under the following statement to Parliament in 1983:

These new procedures will separate consideration of the requirements of retribution and deterrence from consideration of risk to the public, which has always been and will continue to be, the pre-eminent factor determining release....The judiciary will properly advise on retribution and deterrence. But the ultimate discretion whether to release *will remain with me*.

The Parole Board, according to Livingstone and Owen (1999), recognised that they were engaging in a quasi-sentencing exercise when reviewing MLS cases and determining how long they should continue to serve in custody. Similarly Maguire (1992:187) notes the Parole Board was ‘restricted primarily to the assessment of risk once the tariff period had been served’. The Home Secretary’s statement clearly determined the implicit undertone of the MLS; it doesn’t order lifelong detention but does authorise detention for the purpose of punishment and protection. In 1983 the Home Secretary used the ‘whole of life tariff’ in particular cases of murder for the first time reconfirming detention on the grounds of punishment and protection. Conservative and Labour Home Secretaries have set whole life tariffs on selected murderers. Such prisoners had the right of appeal to the High Court or ECtHR to have the tariff reduced and early release *could* be granted on the grounds of good progress in custody or for compassionate reasons.²²

²² Reggie Kray a notorious gangland killer was released under such circumstances in 2000 due to a terminal illness. He died five weeks after his release.

In 1983 the Home Secretary had by dividing the sentence formally into punishment and protection re-established the tenuous²³ link between risk and protection of the public when considering the release of MLS prisoners (see section 1.6.2). Prisoners who had completed their tariff could and should expect to be released unless they were considered a risk to the public, the risk being that of committing an offence similar to the one for which they had been originally imprisoned. However this assertion proved to be ambiguous and contentious, resulting in even more rigid political involvement in the 1990s as will be discussed below.

The purpose and administration of the MLS for murder received little further attention until 1989, when The House of Lords Select Committee on Murder and Life Imprisonment was established. Chaired by Lord Nathan²⁴ the Committee found that murders differed so greatly it was wrong that they attract the same punishment. The Committee did not consider differentiation between categories of murder. They recommended more discretion for judges to impose the sentence most appropriate to the offence, having taken into account all the circumstances. They also called for the abolition of the MLS. The Nathan Report, whilst reawakening interest in murder and sentencing, did little to progress matters with respect to the removal of executive influence in tariff setting, release and recall.

1.3.5. 1993-1996: Changes to Policy and a Re-examination of the MLS for Murder.

The Home Secretary (Michael Howard) made a statement to Parliament in 1993, which contained further changes to existing policy. The first change made was the right to increase the already fixed MLS tariff whenever he or a successor considered that detention had not satisfied the period already determined as necessary for deterrence and retribution. He was giving himself and future Home Secretaries an opportunity to revisit the tariff imposed by predecessors should they wish to make a stance on violent crime and offenders. Such a stance was not only defiant in terms of previous moves via the ECtHR in DLS cases²⁵ but also reflected Howard's relationship with the judiciary.

²³ Of course risk and protection are closely related when considering any offences against the person. However in the aforementioned political climate of 1983 the Home Secretary was clearly using the MLS to apply punishment and protection despite the low risk of MLS prisoners committing further murders as indicated by the research discussed in section 1.6.2.

²⁴ Commonly known as the Nathan Report the findings were reported in July 1989.

²⁵ See Landmark cases like *Thynne Wilson and Gunnell v United Kingdom*.

During 1993 three further significant events occurred with regard to the MLS and MLS prisoners. At the same time as the Home Secretary was strengthening his position with regard to violent crime in general and tariff setting in particular; the Lane Committee on the Penalty for Homicide (1993) was established under the auspices of the Prison Reform Trust. The Committee recognised the divergence between the legal and public conception of what murder is and the range of offences incorporated within the category of murder. Lord Lane outlined the difficulties facing judges who have to sentence all murders in the same way, irrespective of circumstance. He also condemned the MLS process for taking place ‘behind the scenes’ by the executive and away from the prisoner; he rightly claimed this was logically and constitutionally wrong. As with The Nathan Report, the emphasis remained on allowing more freedom for the judiciary in distinguishing and sentencing according to individual circumstances. There were two principal recommendations of the report – the first was the abolition of the MLS for murder, considering it to be a relic from earlier times resulting in potential injustices (Lane 1993). The second recommendation was a cessation of the behind the scenes process on tariff setting and other decision making with regard to MLS prisoners, making such decisions more open and equitable with DLS prisoners. Neither recommendation was implemented. Future enquiries and legal precedent would continue to examine the role of the Executive in relation to the administration of the MLS.

The tariff setting procedure for MLS prisoners was examined in *R v Secretary of State for the Home Department ex p Doody* 1993.²⁶ The judgment in Doody gave MLS prisoners the right to know the minimum period of imprisonment the judge thought appropriate and the rationale behind the recommendation. One of the most significant features of Doody was the right for the prisoner to make legal representations prior to setting the tariff, alongside the right to be informed of any departure from the judges’ recommendation once the tariff was set. The case of Doody was seen formally to establish that the MLS comprised two elements – punishment and protection, although it could be argued that the Home Secretary had effectively done this in 1983 as discussed in section 1.3.4. All mandatory lifers had to serve their tariff and have no prospect of release beforehand.²⁷ Cases such as *R v Secretary of State for the Home Department ex parte Raja and Riaz* 1994 highlighted the alienation of the prisoners from process and procedure. Their tariffs

²⁶ *R v Secretary of State for the Home Department ex parte Doody* [1993] 3 WLR 154, HL.

²⁷ Unless criteria set out under s36 Criminal Justice Act 1991 for compassionate release are met.

had been set at 20 and 25 years respectively, an increase of 10 years over the trial judge's recommendation. The court decided the reasons proffered by the Secretary of State were not adequately disclosed (Creighton 1995).

The third and perhaps the most contentious event of 1993 was the introduction of the 'Whole of Life' sentence. The whole of life sentence is a mechanism whereby certain prisoners are sentenced to remain in prison until their death and will probably never be released despite appeal. The tariff review for such prisoners occurred only after serving the first 25 years and thereafter at five yearly intervals. In 1993 the Home Secretary had strongly defended the right to refuse release to prisoners, claiming that it protected the public confidence in the CJS. It was more a means of preventing electoral suicide, particularly at a time of perceived decline in law, order and moral standards. These debates dominated at the time by the abduction and murder of three year old Jamie Bulger by two young boys – John Thompson and Robert Venables²⁸.

By 1995 renewed interest occurred with regard to the MLS and the role of the Executive. The Home Affairs Committee of the House of Commons (1995) reviewed the situation. Despite receiving evidence to abolish the MLS and hence remove executive power the proposal was to retain the MLS but to remove the Home Secretary from the equation. This proposal was further developed and subsequently quashed under their supplementary report (see below). The Home Affairs Committee also recognised the role and importance of the Discretionary Lifer Panel (DLP)²⁹ with regard to decisions pertaining to release. The Committee suggested that the DLP should have the ability to direct the release of mandatory lifers as in the case of discretionary lifers. At the time of both reports there was, according to Padfield (2002), no more political will to abolish the MLS than in previous years. The MLS remained firmly in place using the 'Pact with Parliament' as the guiding principle. The Committee argued that to abandon the MLS would be a betrayal of those who voted to abolish the death penalty³⁰ as well as 'those who vote against its reintroduction on the understanding that the life sentence for murder will continue to be

²⁸ Thompson and Venables were not subject to lifer rules.

²⁹ Discretionary Lifer Panels created under the Criminal Justice Act 1991 s 32/34.

³⁰ The last attempt to reintroduce capital punishment was in 1994 the motion defeated 406-161 for all murders and 385-188 for murder of police officers. D Boothroyd 1995.

mandatory' (1995:para54)³¹. McGeorge (1995) argued for the abolition of MLS, favouring a system comparable with other countries who set a maximum term of imprisonment, such as Norway who impose 21 years, Spain 30 years and Cyprus 20 years. Such recommendations were not enacted and the indeterminacy of the sentence remained as much intact in 1995 as it did in 1965.

The Home Affairs Committee 1996 – 2nd Report Murder: The Mandatory Life Sentence looked further at the Executive role; a role that continued to cause concern to the judiciary in terms of independence in sentencing and judicial process. The key issues considered were whether the MLS should remain for murder or discretionary life be substituted; and should the Home Secretary continue to determine the tariff length and actual release of murderers. The Home Office argued that the Home Secretary should continue to have the final decision on both matters believing that: 'The involvement of the Home Secretary was an essential ingredient of the unique sentence which was needed as a penalty for the unique crime of murder.'

Despite the Home Office recommendation, the Committee concluded:

The mandatory sentence of life imprisonment for murder should be retained, and we recommend that the responsibility for setting tariff and for taking decisions on release should be removed from the Home Secretary (1996: pv).

The 1996 Committee also suggested that the trial judge sets out in open court the length of tariff - as already discussed, this was a process that had previously taken place behind the scenes, estranging the recipient from the process. This inhumane and unnecessary course of action was not experienced by DLS prisoners. It is through this uncertainty that the mandatory lifer faced his imprisonment, constructed his identity and developed mechanisms to manage his initial unknown term of imprisonment.

The 1996 Committee made controversial suggestions such as victims' families attending release hearings for convicted murderers, a move designed to acknowledge the seriousness of the crime and reflect society's view of 'having a say in the proceedings'. The nature of the emotionality that would be evoked by the victim's family, dissuaded the committee from pursuing this option in the interest of fairness to the prisoner. In compromise they

³¹ Para 54 13th December 1995. HMSO: London.

deemed that a legal representative could attend the hearing on behalf of the family. This recommendation was not enacted.

The overall view of the Committee was that they wanted to maintain the continued public confidence in the CJS with particular regard to the release of murderers and the vehicle to retain this confidence was the Home Secretary: 'We therefore now recommend that responsibility for decisions on the length of tariff and on release of persons convicted of murder should continue to rest with the Home Secretary' (1996: pxi).

Padfield (1996) examined the Committee's thinking and concluded that abolishing the MLS for murder would be seen by the Committee as minimizing the seriousness of the act; doing so would not be either politically or publicly acceptable. The Committee agreed the public should have better understanding of the links between gravity of offence and length of time imprisoned. The need to set the tariff in terms of retribution and deterrence to appease any public concern remained evident in the Committee's thinking. Therefore the continued imprisonment of prisoners perceived by the public as 'dangerous' was an argument that affected not only the proposal for the removal of the Executive from decision making but also ensured the continuation of indeterminate rather than determinate sentencing as well as the continued detention of MLS prisoners beyond the point of tariff expiry – the second phase of the MLS.

1.3.6 Post Tariff Detention 1993-1998

The second part of the life sentence is the period where the lifer is held in custody post tariff. It is during this time that his assessment will determine transfer to open conditions and ultimately release. This period may in theory last indefinitely, a situation that is beyond comprehension for free citizens as Staples (1981:6) aptly states:

How hollow are the words of the judge who gives an indeterminate sentence (life).....when that sentence brings with it such uncertainty such vulnerability. Is there a lifer who would not sooner exchange his detention for a determinate sentence of almost any length?

The second part of the Home Secretary's 1993 statement to Parliament related to detaining MLS prisoners who were no longer a danger to the public beyond their tariff. The basis for this decision was that it would not be acceptable to the public to 'release early' - which meant prior to the prisoner's death. Public concerns over safety when sentencing may have

a relevant part to play in tariff setting; however detaining men who pose no risk beyond the tariff purely for punitive reasons cannot be legitimated in the same way.

Detaining a MLS prisoner beyond his tariff on the basis of the risk of committing a further imprisonable offence requires further examination. In 1993 the original directions issued to the Parole Board by the Home Secretary referred to an 'imprisonable' offence not a 'violent' offence. It was generally believed, according to Livingstone and Owen (1999), that detention post tariff would be on the basis of fear of the prisoner committing a violent offence on release. Such a belief was dispelled in 1997 with the case of Stafford, a recalled MLS prisoner who was denied release through fear of committing non-violent offences. Stafford had not committed a further offence involving violence either in custody or post release. He had, however, been recalled to prison on two occasions for non-violent offences³².

In 1997 the Home Secretary reviewed the issue of 'risk' with regard to post tariff MLS prisoners. The word 'risk' would now no longer be taken to mean committing a further violent offence, rather a further imprisonable offence. He was in effect confirming existing policy, not radically changing it. His main argument, similar to his predecessors, was that his policy statements were not ambiguous and that *dangerousness* was not the decisive test in the post tariff phase. He went on to reiterate:

...the position of a prisoner subject to a MLS continues to be distinct from that of a prisoner serving a DLS a decision on whose final release is a matter for the Parole Board alone (Home Secretary Policy Statement 1997)

On the 23rd July 1998 the House of Lords dismissed Stafford's appeal as the Home Secretary was lawfully entitled to detain or recall a MLS prisoner because he presents an unacceptable risk of committing a further serious (not necessarily violent) imprisonable offence. Such a ruling legitimised the Home Secretary's distinction and policy on DLS and MLS prisoners, which involved prolonging detention merely on a belief they may commit an imprisonable offence if released on licence. This move has been criticised on the basis of it being unlawful to detain an MLS prisoner on such fears (Buxton LJ 1999). The case of *Stafford v UK (2002)* has raised the question of legitimacy:

³² He was unlawfully at large in South Africa – breach of licence condition and convicted of Fraud on a second occasion.

It is not apparent how public confidence in the system of criminal justice could legitimately require the continued incarceration of a prisoner who has served the term required for punishment and is no longer a risk to the public (ECtHR in *Stafford v UK* (2002) 35 EHRR 1121 at para 80).

The distinction between the DLS and the MLS is apparent; DLS prisoners are detained post tariff due to risk and danger, MLS prisoners are detained post tariff due to the theory that they have forfeited their lives to the state. It is this underlying distinction that is drawn by the executive and which is contrary to the principles of common law - detaining a prisoner beyond the point when he is dangerous - as this is unrelated to the original MLS. The Home Secretary, according to Livingstone and Owen (1999:393), 'created a form of arbitrary Executive detention without trial'. The case of *Stafford* was in effect a template for change with regard to the mechanics of the MLS and the involvement of the executive.

1.3.7 The MLS 2002- 2006

On 25th November 2002 the Home Secretary's power to set the MLS tariff was removed. This move followed the successful challenge by *R v Secretary of State for the Home Department ex parte Anderson*. Anderson was imprisoned for a double murder in 1987. He was told he would serve 15 years before consideration for parole board hearings; this was increased to 20 years by the Home Secretary. Anderson claimed his human rights had been breached and both the High Court and ECtHR agreed. The unnecessary executive involvement was finally over. The MLS prisoner after more than 30 years would, in respect of tariff setting, be on equal footing with DLS prisoners. The 2003 CJA made further advances with regard to the involvement of the Home Secretary and also in defining starting points for sentence lengths for murder.

1.4 The 2003 CJA and the MLS

The White Paper 'Justice for All' (2002) outlined the Government's plans for the CJS, focusing on particular reforms including sentencing. The White Paper had built on the proposals contained within two key documents – The Auld Report (2001) and The Halliday Report (2001)³³. The White Paper preceded the 2003 Act, whose central purpose was to 'rebalance the CJS in favour of victims and the community whilst ensuring the fair treatment of suspects and offenders (Gibson 2004: vii). The existing law continues to deal

³³ Review of the Criminal Courts of England and Wales – Sir Robin Auld (2001).

Making Punishments Work: A review of the sentencing framework of England and Wales (2001) by John Halliday.

with the MLS for murder. The significant changes that occurred as a result of the 2003 Act pertain to sentence length and the release of MLS prisoners and the introduction of new indeterminate sentences.

On the 18th December 2003, under s269 Schedule 21³⁴ of the 2003 CJA the trial judge when passing a MLS would now specify the minimum term (formally known as the tariff) of imprisonment for punishment, although this provision had been available under the 1965 Murder Act but had not been followed (see section 1.3). The minimum term³⁵ does not include the consideration of risk (or post tariff detention). The ‘minimum term’ still reflects the punitive element of the sentence in the same way. However, the minimum time to be served in custody only takes into account time held on remand. The minimum term commences on date of sentence. If remand time is not included this is therefore worse rather than better for MLS prisoners.

The 2003 Act prescribes the starting point of sentence for murder as follows - whole of life, 30 years, 15 years and 12 years. The CJA 2003 offers guidelines in relation to particular kinds of murder after considering aggravating factors that increase the seriousness of the offence. Such factors include sexual, religious or racially motivated violence; each contributing toward higher tariffs. In a survey conducted by the Home Office (2004) of 55 murder cases where the offence was committed after 18th December 2003 the majority of cases had been decided using the 15 year starting point; the highest punitive figure being 25 years. Since this research and as a result of a growing number of deaths occurring as a result of gun and knife crime the Justice Secretary, Jack Straw (2009) imposed a starting point of 30 and 25 years respectively for gun and knife murders³⁶. These minimum terms resulted from campaigns and demands from victims’ families alongside the need for the government to maintain public credibility regarding law, order and punishment.

³⁴ Schedule 22 deals with cases sentenced prior to 2003 for those awaiting tariff setting by the judge.

³⁵ I will remind the reader that the word ‘tariff’ will be used throughout this thesis as this was the term used by the participants.

³⁶ A review of Schedule 21 in relation to the starting point for murder using knives was announced in Parliament 16/06/09 prompted by public concerns that the starting point of 15 years should be higher considering the starting point of 30 years for murder using a firearm: Criminal Justice Act 2003 Mandatory Life Sentence: Determination of Minimum Term Order 2010 No 197 (Ministry of Justice).

Blom-Cooper and Morris (2004) offer a critical account of the politics and mechanisms of the MLS and the injustice of the sentence, particularly the whole of life. They recognize the need to retain such a sentence but note the hopelessness of the situation for such prisoners. The whole of life sentence is not legally binding and future politicians could use their discretion as to its continued use. Such moves will inevitably depend on the perceived state of law and order and public opinion, as well as knowledge from academic research; the latter being less politically expedient. There are currently 36 prisoners, 35 men and one woman serving a whole of life sentence (Ministry of Justice 2010). The reality is there could be many more prisoners remaining imprisoned for their natural life as a result of failing to convince the Parole Board as to their suitability for release (see section 1.6.2; chapters 6-8).

Schedule 21 known as the 'new form of MLS' is according to Blom-Cooper and Morris (2004) a retention of the MLS from the 1965 Act. The difference however is the setting out in open court in *plain* language the order being imposed and the length of sentence in accordance with the seriousness of the offence. The use of prescriptive guidelines, coupled with continuation of the MLS, is continuing to differentiate a category of prisoner according to the emotionality elicited from the label 'murder'. According to Blom-Cooper and Morris the CJA 2003 defends the MLS in that it is: '...suggestive of an inward looking defensiveness rather than an adventurous, outward looking foray into the territory of reform' (2004:172)

The CJA 2003 has significance in terms of direction for release. The Parole Board were given the power under the Act to direct the release of MLS prisoners in the same way as for DLS prisoners - a long awaited move toward unity. Section 275 of the Act deals with the release of MLS prisoners and is in accordance with the rulings of the ECtHR in the case of *Stafford* (opcit). The provisions under this section bring the release procedures in line with those for DLS prisoners. The MLS prisoner is able to require that the Secretary of State refer his case to the Parole Board once his tariff has been served. Once the Parole Board decides that the prisoner should be released and are satisfied that his continued detention is no longer necessary in order to protect the public, the Secretary of State is then placed under a duty to release the prisoner on life licence. Section 269 of the CJA 2003, when considering the 'whole of life' sentence, states this should be used if 'the murder is so grave that the offender ought to spend the rest of his life in prison' and clearly indicates

that early release provisions are not to apply to such an offender. This proviso is effectively formalising a life for life policy for certain prisoners and ensures judicial intervention is prohibited.

Two new indeterminate sentences for violent and dangerous offenders were passed under the 2003 CJA; Imprisonment for Public Protection (IPP)³⁷ for those aged over 18 and Detention for Public Protection (DPP) for those aged under 18. Whilst it is not the intention of this thesis to examine these sentences what is of import is the impact on the indeterminate population. The IPP population as of October 2009 stood at 6,000 (Prison Reform Trust). These prisoners have to prove their reduced risk and are no longer a danger prior to release. In order to do so they must attend courses within prison. Access to courses has been limited. The Court of Appeal has ruled it unlawful and a breach of human rights to detain such prisoners if the provision for their rehabilitation is not forthcoming. The ramification for DLS and MLS prisoners will be lack of opportunity to attend courses if IPP prisoners are given priority. MLS prisoners serving 25 years or whole of life will not be seen as a priority in course allocation. At equal disadvantage is the recalled MLS prisoner or those nearing the end of sentence. IPP prisoners despite being imprisoned to protect the public are being sent to open prisons. As with access to courses, DLS and MLS prisoners will be affected by the lack of available spaces in open prison if preference is given to IPP prisoners who have served shorter sentences than their indeterminate counterparts.

The number of MLS prisoners continues to exceed the number of DLS prisoners a situation that has remained constant since 1965. Table 1.3 indicates the growth in indeterminate sentences:

³⁷ In a further bid to be seen to be tough on crime the then Home Secretary David Blunkett introduced two new indeterminate sentences – Imprisonment for Public Protection for those aged over 18 years (IPP) and Detention for Public Protection (DPP) for under 18 as defined in s225 and s226 of the 2003 CJA. The CJA 2003 schedule 15 includes 153 offences attracting an indeterminate sentence. The IPP could be handed down to criminals convicted of violent or sexual crimes carrying a maximum penalty of ten or more years in jail, some sentences have been as low as 30 months. Whilst there would be a minimum sentence - or "tariff" – these sentences were essentially open-ended. Prisoners would have to convince the Parole Board they no longer presented a risk to the public. Blunkett's message was clear - criminals who still presented a danger to society should not expect release.

Table 1.3 showing population of indeterminate sentence male prisoners England and Wales 30th June 1997-2008 (Source NOMS Caseload Statistics)

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
MLS	2872	3002	3048	3201	3322	3464	3566	3583	3724	3949	4143	4395
IPP	0	0	0	0	0	0	0	0	24	1045	2776	4333
Others	712	795	1008	1184	1326	1518	1686	1830	1949	2053	2262	2307
TOTAL	3584	3797	4056	4385	4648	4982	5252	5413	5697	7047	9182	11035
MALES												

At the same time as the 2003 CJA was being implemented the Law Commission had been undertaking a consultation process commencing in 2004 with regard to the law of murder, reporting their findings in 2006.

1.5 Law Commission: Homicide 2006

The Law Commission agreed that all persons convicted of murder must be imprisoned for life. The tariff reflects the seriousness of the offence and the demands of retribution and deterrence; the CJA 2003 already stipulates the sentence starting points as discussed in section 1.4.1. The decision to release should be based on perceived danger to the public; as such the prisoner may spend much longer in prison than the minimum recommendation of the trial judge. There remains little comfort to those sentenced to indeterminate sentences that release will follow swiftly post tariff.

The key principles guiding the reform suggested by the Law Commission are based on the ‘ladder principle’, that being a graduated hierarchy of offences reflecting the offence seriousness without too much overlap between individual offences. Lord Bingham³⁸ (2006:16) states:

Interests of justice are not served if a defendant who has committed a lesser offence is either convicted of a greater offence, exposing him to greater punishment than his crime deserves, or acquitted altogether enabling him to escape the measure of punishment his crime deserves. The objective must be that defendants are neither over convicted nor under convicted.

The sentence for murder is therefore placed within a retributivist framework in that the perceived seriousness of the offence is punished accordingly. Such an approach is not without difficulty. The inherent difficulty of defining whose life is worth more becomes

³⁸ Coutts [2006] UKHL 39 [2006] 1 WLR 2154 at [12].

apparent. The quantitative survey undertaken by Mitchell (1998) into the public's perception of homicide and criminal justice was used by the Law Commission in their reporting. This survey presented different homicide scenarios to the public, asking them to indicate the appropriate sentence. The difficulty in trying to distinguish murder, manslaughter and mercy killing became evident.³⁹ The Law Commission recommended replacing the current two tier (murder and manslaughter) system with three, these being: First Degree Murder⁴⁰ carrying the MLS Second degree murder⁴¹ and Manslaughter.⁴² The difficulties facing legislators in 1957 when considering the Homicide Act and capital and non-capital murder will be comparable with the difficulty facing legislators today when considering degrees of murder.

Applying the ladder principle could result in more people being imprisoned under first degree murder charges than are currently held under the MLS, and as a result serve even longer periods of imprisonment than is currently the case. There is nothing in the Law Commission Report to indicate abolition of the MLS. Politically the MLS remains a seductive weapon. The Liberal Democrats in their 2005 General Election manifesto claimed if they gained power the life sentence would only be imposed if the judge believes that the person should stay in prison forever. If every judge believed every murder he or she tried warranted such detention the results for prisoners and the prison system could be catastrophic.

This chapter has charted the history of the MLS for murder. I have attempted to demonstrate the political involvement and administration of the sentence as a unique and

³⁹ The punitiveness of the imposed sentences in the scenarios proffered by Mitchell indicated that men were more likely to propose the death penalty than women; personal culpability was an important factor in the public's evaluation of homicide; ordinary people agreed with 'fair labelling' in relation to homicide and sentence length was high in accordance with perceived 'worst case scenarios'.

⁴⁰ Intentional killing or killing through an intention to do serious injury with an awareness of a serious risk of causing death.

⁴¹ Killing through an intention to do serious injury (even without an awareness of a serious risk of causing death) or killing where there was an awareness of a serious risk of causing death, coupled with an intention to cause either – some injury, a fear of injury, or a risk of injury.

⁴² Where death was caused by a criminal act intended to cause injury, or where the offender was aware that the criminal act involved a serious risk of causing injury or, where there was gross negligence as to causing death.

distinguishing feature. The statistics presented within Tables 1.1-1.2 have demonstrated that the number of MLS prisoners has not grown dramatically since the abolition of capital punishment; the number of other indeterminate sentence prisoners has. There are still no signs to remove the MLS and replace it with a fixed term despite the recommendations outlined within the various reports and committees discussed above. For the foreseeable future the MLS will remain in place. The chapter has demonstrated the political nature of the MLS. The sentence has been used to reassure the electorate that murderers will receive the most severe penalty; an ‘electorate’ that does not include the prisoner himself as within Britain any serving prisoner is disenfranchised. The final part of this chapter will examine the MLS in terms of sentence management policy and practice, re-offending and the life licence.

1.6 Sentence Management-Policy and Practice Issues

The abolition of capital punishment contributed to a growth in custody. The Prison Department recognised the need to revise and review the management of the long-term prison population and commenced such a move with the introduction of Home Office Circular 39 (1974). This document provided the management instruction for the next 15 years. Further instructions were issued in 1989 and in 1995 the Lifer Manual was introduced. Since 1995 the lifer manual has been updated and revised periodically in line with changes in criminal justice legislation. Practitioners managing the sentence are expected to be familiar with any changes. The rapidity of change, for instance the six new chapters revising management and policy⁴³ introduced under Prison Service Instruction (PSI) 15/2006, can result in confusion and the likelihood of poor and inconsistent information being passed to prisoners (see findings chapters). In the autumn of 2009 the Lifer Manual became the Indeterminate Sentence Prisoner Manual, reflecting the changes in the indeterminate prisoner population as stated in section 1.4. The Manual states that lifers have a planned and structured career through the prison system including, where appropriate, prisons with lower security status. The new manual incorporates the needs of the IPP prisoner. Allocation to any prison establishment is managed centrally by the National Offender Management Service (NOMS) within the Ministry of Justice (MOJ) and not at the discretion of governing governors. The majority of lifers are placed within

⁴³ These include guidance on the punitive periods of the life sentence, Parole Board reviews, release, supervision and recall procedures.

prisons with determinate prisoners; the exception being the few dedicated lifer only prisons⁴⁴.

1.6.1 Serving the MLS

All prisoners are security classified according to the four-tier scheme recommended by Lord Mountbatten. The four categories of prisons and prisoners are A B C and D. Category A is the highest security prison and Category A prisoners are those whose escape would constitute a grave danger to the public, police, or security of the state regardless of how unlikely such an escape would be. Category B prisoners are those for whom the highest conditions of security are not necessary but for whom escape must be made very difficult. Category C prisoners are those who cannot be trusted in open conditions but who do not have the resources and will to make a determined escape attempt. Category D prisoners are those who are deemed trusted not to escape or abscond (Home Office Classifications). The majority of MLS prisoners will pass through stages B to D; a smaller number will commence as Category A prisoners. The Lifer Review and Recall Section within NOMS has the responsibility for life sentence management. Once the MLS has been passed the prisoner will commence his sentence at a local prison, often the one where he was held on remand. Following conviction for men sentenced prior to the Doody case in 1993, the tariff setting process begins as discussed in section 1.3. The prisoner will be allocated to one of the 10 prisons known as 'main centres' used for the first stage of the life sentence. He can spend up to four years in such a prison. Theoretically at this point of sentence the Life Sentence Plan (LSP) introduced in 1993 should be undertaken in conjunction with the prisoner and prison / personal officers.

The LSP has three parts, the first being an initial assessment which should be completed within the first three months of arrival at the main centre. A risk assessment is undertaken looking at offence history, family background, education and employment. Offence related risk factors such as drugs, alcohol, violence and anger are also considered alongside reports from police, the courts and probation. The assessment of risk is based on both qualitative and quantitative analysis; the paramount concern always being the protection of the public (Jones 2001; see also Chapters 2, 6- 8). The plan will contain contributions from personnel within the psychology, education and health departments and is drawn up

⁴⁴ HMP Gartree, HMP Kingston and HMP Shepton Mallet. It should be noted that within the lifer population IPP prisoners up until 2009 were included and managed as lifers and therefore could be resident at the aforementioned prisons.

in accordance with identified criminogenic risks. Any particular aspects of offending behaviour that need addressing and any needs peculiar to the prisoner should be included. An establishment equipped to deal with these issues should be identified for the prisoner. In times of a growing prison population, the availability of suitable spaces becomes less of a priority for MLS prisoners in comparison with other types of prisoners serving an indeterminate sentence as discussed in section 1.4.3.

The prisoner will need to be seen to be progressing before he is considered ready to move through the prison system. The second part of the LSP involves a review of the evidence relating to predicted risk behaviours and the third part is the pre-transfer and final review reports. Any unsatisfactory reports from professionals will impact on prison moves. According to Cullen and Newell (1999), the time at the main centre is the point of the sentence where the lifer will learn his 'survival skills' - such skills include the acquisition, creation or maintenance of a number of identities (see findings chapters).

Stage two of the life sentence will be at a training or dispersal prison. At this point the prisoner is expected to have addressed offending behaviour and the move may be one designed to facilitate specialist intervention, for example to undertake therapy. It is not unusual for MLS prisoners to undertake therapy and courses when they are in Category C prisons and working toward Category D status. These 'backward and sideways moves' within the system will add to the indeterminacy of their sentence as they await places on designated programmes. By the time the lifer is ready for his first review by the Parole Board he should be in a category C prison. The daily regime in category C prisons should be less secure and rigid than in Category B. However some main lifer centres such as HMP Gartree appear to allow a more relaxed lifestyle in terms of access to facilities and resources such as cooking and interaction with other prisoners than is normally associated with a category B prison⁴⁵. The final move is one to a category D prison or open prison (see chapter 2). These stages typically represent the stages that most MLS prisoners experience. The statutory review process previously examined is complemented by an automatic yearly review held within the prison at which the lifer can attend. Any additions or changes to the LSP should take place at this point.

⁴⁵ From the information given to me by professionals and prisoners interviewed

Prior to 1992 the reports contained within the lifer dossier⁴⁶ were not disclosed to the prisoner. By the time Doody (opcit) reached the House of Lords the Home Office announced that at all review lifers would be entitled to see the reports prepared on them (Creighton 1995) A move that went some way to dispelling the secrecy surrounding individual lifer cases. This move also brought to light the degree of subjectivity in the process and the extent to which the board and the Home Secretary choose not to accept the recommendation of report writers⁴⁷. The three year review prior to the expiry of their tariff is one in which the MLS prisoner does not have a legal right to attend but has the legal right to the review. It is at this review that decisions are made in one of three ways Firstly, if the prisoner has made no progress, this is generally referred to by prisoners and staff as a 'knock back'; he stays put and has to address the areas identified. The second recommendation is a move to open conditions and the third is release.

Preparation for release is usually considered more productive via a transfer to open conditions where the prisoner can commence re-integration with society (see chapters 2; 6-8). The expectation once a MLS prisoner has been in open conditions for a defined period (generally taken to be two years as a maximum) is that he will be released into the community. Mitchell (1992:232) when looking at lifers preparing for release noted that:

A limited amount of objective data on risk may be available, but subjectivity will inevitably play a part in predicting how a prisoner is likely to behave if and when released. All those familiar with the case will be invited to express their opinions.... yet the vast majority have no training or expertise in analysing and evaluating human behaviour to draw upon.

Acknowledging subjectivity exposes the fact that there is no such thing as certainty in the

⁴⁶ The files containing the history of the lifer

⁴⁷ See for example, the case of *R v Parole Board and Secretary of State for Home Department ex parte Evans* (1994) 2nd November DC (unreported). A lifer challenged the refusal of the Board and the Home Secretary to recommend release from closed prison despite the fact report writers advocated it.

decision to release and the risk the prisoner poses. Hawkins (1983) stresses the moral character of criminal justice decision making pointing out ‘the act of defining what is “relevant” or “significant” enough to warrant inclusion in the records – quite apart from the actual language employed in the account – is an opportunity for the supplier of “facts” and “descriptions” to absorb the ultimate decision maker into his or her own moral universe’ (1983:114). Whereas Dobash et al (2004:587) note the indeterminate nature of the life sentence creates a greater effort by agencies to spend time on recording and documenting observations and interviews throughout the sentence. These efforts are, according to Dobash et al, an attempt to ensure prisoners are ‘safe’ to release.

1.6.2 Re-Offending On Release

The decision to release will be based upon the acceptance that the prisoner is no longer a risk to public safety and that the public would have been satisfied that a punishment has been meted out as ‘justice’ for the offence. Risk assessment is considered on the basis of preventing any future offending. Research has shown that lifers released on licence are no more likely to re-offend than any other released prisoners. (Steadman and Coccozza 1974, Thornberry et al 1979, Alter et al 1997). Kershaw et al (1997) found reconviction rates for MLS prisoners lower than for DLS prisoners. Kershaw’s sample comprised 77 percent released from a MLS. There is scant evidence to suggest that even a minority of released MLS prisoners will go on to re-offend as seen in more recent figures. During the period January 2007-January 2009 there were 14 male MLS prisoners, who whilst on life licence committed a further serious violent or sexual offence⁴⁸ and were subsequently convicted. (MOJ 2010)

The rarity of repeat murder offences post release is not sufficient to allay the concerns about the potential risk. Table 1.5 shows the number of further murders committed by MLS prisoners released on life licence from 1969-1992 (see also Appendix 2⁴⁹). At the time of these interviews undertaken for my research one mandatory lifer on life licence was charged with a second murder in 2006-7 and subsequently convicted (MOJ 2008).

Table 1.4 showing further murder committed by men released on MLS life licence after implementation of Murder Act 1965. Source: HC Debs 13/12/1993 Vol. 234 cc434-5w.

⁴⁸ The data does not indicate if any of these further serious violent offences were murder.

⁴⁹ Appendix 3 indicates all homicides committed as a further serious offence by those originally convicted of homicide since 1997. These figures do not break down the offences committed by MLS prisoners as a distinct group.

Date of First Murder	Date of Second Murder
1969	1986
1971	1990
1972	1988
1972	1992
1974	1985
1979	1989
1980	1992

Minority high profile cases have focused public lack of confidence in the life sentence system in general and can be seen in particular in the case of Rice (2005) a released DLS prisoner who went on to commit murder shortly after release (see chapter 2). The danger posed by DLS prisoners whose release is based on the perceived risk they pose should not be negated. However, Shaw (1999: viii) points out that most murders are committed on a known person and the chances of re-offending are minimal thus Shaw emphasizes that little or no threat is posed to the remaining public at large when MLS prisoners are released. Once he has proven himself to be suitable for release the third and final stage of the life sentence commences; life on life licence.

1.6.3. The Life Licence

The life licence introduced under the 1948 CJA provided ministerial provision to release and recall lifers and was effectively seen as the ‘public safeguard’. At the same time a Royal Commission was established to consider alternatives to capital punishment and reported as ‘The Gowers Report’ (1953). The Commission saw no necessity to attach any special conditions to the licence unless the prisoner had a history of mental illness or an exceptionally long criminal career. This was at odds with European counterparts which had been inserting post release conditions such as where prisoners could reside and work, who they could contact and an expectation that the prisoner would abstain from alcohol. The Commission had indicated their own concerns over the release of serious offenders and had also pre-empted public concerns. They concluded that any additional requirements attached to a post release licence in the United Kingdom would reflect the need to protect the public and *be in the interest of the prisoner*. The Commission had also considered reporting and supervision in its report recognising that a relationship based on respect and trust is a prerequisite for successful supervision and needs to develop between the prisoner and the supervising officer. They eventually decided that encouraging independence in the lifer was of greater importance; a far cry from the policy and practice that would

eventually emerge post 1965 and one that is omnipresent today. Few probation visits take place while the prisoner is in custody. Strict enforcement procedures in the community have been coupled with the erosion of autonomy experienced by probation officers (see Ballantyne 2004). Under these circumstances it can be difficult for either party to have a neutral agenda or positive attitude toward supervision in the way Gowers envisaged, particularly when additional conditions are contained within the licence⁵⁰ (see appendix 4). The current life licence has a statutory supervision component of a minimum four years or 10 years for sexual offenders. The released lifer will be under the supervision of probation officers. At the commencement of this research (2004) there were 1403 life licences under active supervision; during 2008-9 the figure was 1646 (Parole Board statistics 2010). The reason for the limited increase can be attributed in part to the number of recalls and in part to an increased use of indeterminate sentences (see table 1.4). The life licence will remain in force until his natural death. For both MLS and DLS prisoners in this sense it can be argued that a life sentence is for ‘life’. The community becomes the prison without walls in much the same way as an open prison. The prisoner on licence is subject to a recall to custody any time as a result of evidence indicating the potential to re-offend or actual offences; the former being open to interpretation and subjectivity.

1.6.4 Recall to Prison from Life licence

Coker and Martin (1985) found to request a prisoner’s recall is an exercise of power requiring one of the most difficult professional judgments that a probation officer has to make. Table 1.6 shows the number of recalls from life licence 1999-2008. Care must be taken in deducing that MLS prisoners are subject more readily to recall as these figures relate to the whole indeterminate population. The Average Daily Prison Population (ADP) will always comprise a number of both determinate and indeterminate prisoners detained on recall. The ultimate test for recall is whether the offender poses such a risk as to justify further detention. Such risk must be the same as that defined on the original offence. The difficulties of determining such risk were outlined in sections 1.3.5; 1.3.6; 1.3.7 and Stafford 1997 (opcit). Any supposed breach of conditions or actual infringements can result in a recall to prison at any time. Maguire (1992:205) rightly states ‘recall to a life sentence is so much more devastating to the individual lifer’.

⁵⁰ As defined under the Crime Sentences Act 1997.

The lifer on licence does not have to have breached any of the conditions of his licence for recall to occur; concern that an offence may take place or conditions may be breached is often enough to warrant recall. According to Arnott (2007:177-8) 'the prisoner is in a significantly different position when returning to custody from the community' as in many cases he has not committed a further offence but is recalled on the basis of subjective interpretation in much the same way as release was first considered. Evidence based on such subjectivity should be treated with caution.

Prior to 2003, recall to custody from life licence came under s32 (2) of the Crime Sentences Act 1997. This section gave the Home Secretary a power to recall a lifer without first consulting the Parole Board in cases where it appeared to him to be in the public interest. Such power was to be reserved for 'emergency' cases only. The 2003 CJA made little variation to the power of recall. The Secretary of State can still exercise this discretion and recall a prisoner under s254. Under the Crime Sentences Act, the prisoner has the right to know why he has been recalled and can make representations against the recall. The Home Secretary has a duty under s32 (4) to refer such representations to the Parole Board. The Parole Board possess a unique power within the statutory framework regulating the MLS they can make a direction for the immediate re-release of the prisoner on licence if after considering the facts they see this as the most appropriate action. The Home Secretary was and remains obliged under s254 of the CJA 2003 to give effect to these directions to release.

One of the biggest criticisms that can be levelled against recall is the delay in the reassessment of the lifer for future release once they are returned to closed prison conditions (see Padfield 2002 and chapters 6-8). Prisoners' perspectives on recall have been described in a variety of literature on life imprisonment and give a good indication of how imprisonment and subsequent release impacts on self-identity: 'I don't really care if I'm recalled to prison. Being inside has got no fears for me. In my mind I'm a prisoner whether I'm inside or not' (quoted in Parker 1990:165). This quote alerts us to the possibility that this person's whole identity has changed as a result of imprisonment to such an extent that his thinking is shaped by the inevitability of returning to prison, and that life on licence is itself like being in prison.

Table 1.5 showing MLS releases and recalls from all life licences – England and Wales (Source NOMS/MOJ 2009)

Year	1999	2000	2001	2002	2003	⁵¹ 2004	2005	2006	2007	2008
MLS Releases	110	101	111	117	185	152	156	100	90	98
Life licence Recalls	34	34	30	26	44	71	111	164	134	108

During the period April 2004–March 2008 a total of 497 MLS prisoners were released into the community. Having requested from the MOJ more specific information,⁵² I determined that out of the 242 recalls between April 2007- March 2008, 83 were MLS.

1.7 Conclusion

This chapter has examined the MLS for murder from inception in 1965 to its present day usage. I have attempted to historically identify the differentiating features of the MLS in comparison to the DLS, the overarching feature being the political involvement of the executive. The powers of the Executive had, as discussed within this chapter, changed very little from 1948 to 2003 when sole responsibility for the release and recall of MLS prisoners belonged to the Executive. The changes to law and policy that have occurred as a result of ECtHR intervention have been in the favour of due process for both DLS and MLS prisoners. I have chosen to study the MLS over the DLS as the men in this study were historically subject to greater political resistance to change and subsequently political intervention affecting their sentence length and any release and recall decisions.

British governments have and continue to view the act of murder as uniquely serious by reserving one specific sentence. Any move to change the sentencing system would result in the downgrading of the act, a move that has been politically inadvisable given the symbolic importance of murder as perceived by the public since the abolition of capital punishment. The abolition of the MLS would provide equal justice within the CJS when sentencing cases of serious offences against the person. The fear of such a move lies not in the risk murderers pose, but rather in the political fear that lack of confidence in the CJS will affect the electorate. Downgrading murder is therefore not politically expedient particularly as the results from surveys such as those conducted by Mitchell (1998) found that 55 per cent of respondents favoured a return to the death penalty for murder.

⁵¹ 2004 was the year of commencement of this research. 2008 was the year of latest figures available as at completion of study.

⁵²For data that will be published in due course the MOJ are bound by official statistics procedures. In practice, that means they can only produce subsets of data that are already available.

The MLS is, has and is highly likely to remain a stand-alone sentence within the CJS for the foreseeable future. The evidence presented within this chapter demonstrates that, from inception, the sentence remains unique. Murder is an offence as diverse as those who commit it, yet it retains a singular sentence that has historically differentiated the act and the prisoner from any other; although we have to acknowledge that in more recent years this may be changing with new legislation such as the IPP.

“You can’t have a bad day you got to be submissive and it is very difficult to constantly be submissive; you know you can’t have a view” (Sam)

Chapter Two: Imprisonment: Changing Discourses within Criminal Justice

2.1 Introduction

This chapter is going to examine the dominant discourses and changing ethos of criminal justice experienced by MLS prisoners during their prison career. During his time in custody the MLS prisoner will have passed through trajectories of risk and danger, attempting to prove he has lessened his risk of re-offending and is not a danger to the public. This chapter will investigate how indeterminate imprisonment rationalises and manages risk and danger and how the MLS prisoner is situated within these discourses. The chapter begins by considering the concept of dangerousness and the incarceration of dangerous offenders. Academics, politicians and the public all agree that individuals have a right to be protected in society from the most dangerous. What is not agreed is the way such decisions are made and how and why prisoners become eligible for indefinite containment. Within this chapter consideration will be given to these issues.

The discussion then continues with an outline and critique of rehabilitation and interventions used within criminal justice. The penal mode has become more punitive and security conscious; a contradiction in terms for prisoners experiencing open prison. The welfare mode has become more conditional, more offence focused and risk determined (Garland 2001). The function accorded the highest priority will be determined by the prevailing penal philosophy of the time. Within chapter one the functions of, and rationale for, the life sentence were discussed - namely retribution and deterrence. Within this chapter a further dimension will be considered – the assessment and management of risk. The chapter will consider actuarial justice, indicating a shift in penal policy and practice from rehabilitation to risk management and possibly from retribution to risk.

The MLS prisoner on the final stage of his life sentence is expected to undertake a period of time in open conditions. This chapter will consider how the MLS prisoner progresses towards open conditions, having met the necessary criteria for such a transfer as a result of passing through and adapting to the official dominant discourse of the time. The chapter will conclude with an examination of the open prison, its purpose function and rationale. Within this section attention will be paid to how risk and danger are conceptualised within this environment for MLS prisoners and the impact this has on the prisoner and his potential for release.

2.2 The Dangerousness Debate

During the 1970s, dangerousness was debated intensely within British policy and criminological arenas. The trigger for these debates was the case of Graham Young.⁵³ The response to this case was the recommendation of preventative measures to incapacitate offenders classed as dangerous. This would be achieved through long or indeterminate sentences. Dangerous offenders were defined by The Butler Committee 1975, as those who had the propensity to inflict serious physical or psychological harm on others - in effect those deemed to pose a serious harm to the public if released, release being dependant on perceived risk. Being critical of the debates permeating at the time regarding indeterminate sentences for those deemed dangerous, Bottoms (1977), presented an anti-protectionist stance against the use of protective measures for 'dangerous' people. The division of offenders into groupings such as 'pathologically dangerous' and 'routine and relatively harmless' (Morgan 2002) has been described by Bottoms (1977) as 'bifurcation'.

The concept of dangerousness continued to generate arguments from criminologists and philosophers - particularly the issue of the ambiguity and subjectivity, notwithstanding the potential for abuse (see Floud and Young 1981, Bottoms and Brownsword 1983). Floud (1981) considered the underlying rationale for defining dangerous offenders as serving a political purpose. This concern was not heeded and dangerousness became enshrined in future legislation. The notion of incarcerating people on a purely preventive basis created further arguments. Such arguments included punishment on the basis of a crime that might be committed in the future, referred to as 'false positives', where extended incarceration is based on the false prediction that the person will be violent and will commit another offence. The reverse situation is known as 'false negatives' as here the prediction is negative in the sense of stating that the offender will not re-offend but the prediction is false because he/she does re-offend. Dangerousness continues to dominate criminal justice matters and is enshrined in the role of the MOJ 2008 whose aim states that the public will be protected by '*ensuring that violent and dangerous offenders remain in prison for as long as they remain dangerous*' (my italics).

⁵³ Young was detained in a special hospital for poisoning members of his family, after his discharge he committed further offences in a similar manner.

2.2.1 Dangerousness and release

Maguire, Pinter and Collis (1984) considered the decision-making process and procedures leading up to release from a life sentence. They found the criteria for release of lifers was made along dual axes of 'dangerousness and tariff' (1984:258). Maguire et al (1984) highlight how dangerousness appears and disappears from prisoner's reports after years spent in custody. This was, and still is, dependent on who is providing the account and how individuals interpret behaviour. Maguire et al (1984:262-3) conclude:

The acquisition of a "label" of dangerousness was a complex affair, and might stem from the offence, indications of instability, or even failure to conform to disciplinary codes in prison...had it been acquired, most prisoners were likely to lose the label at somewhere around the 10 year point in their sentence. They then stood a fair (although still below average) chance of release.

Lifers are recommended for release on the basis of the risk they are perceived to pose to the public. Risk assessment is a complicated process; assumptions, bias, oversimplification and subjectivity are compounding factors. The abnormal environment of the closed prison cannot test risk factors associated with the lifer in a community situation, such as access to drugs, alcohol and establishing intimate relationships. Whilst they can obtain alcohol and drugs in prison, the impact and resulting behaviour associated with long-term use is uncertain, as is their ability to establish and maintain intimate personal relationships with others. These factors become more pronounced in open prison. Cullen and Newell (1999:151) point out:

Risk assessment will continue... because there is a need to ensure that we do not go on imprisoning men for years beyond the point at which they are an acceptable risk to society. *We also need to become capable of focusing on that relatively small percentage of people whose untimely release creates further victims (my italics).*

Cases such as Anthony Rice a discretionary lifer convicted of rape in 1989 and subsequently receiving a 10-year tariff exemplified the problem of false negatives discussed in section 2.2 and the point made by Cullen and Newell above. Rice was moved to open conditions at HMP Leyhill in March 2002 and after serving three years over tariff was eventually released to a charity run hostel in November 2004. Within eight months of release, Rice committed a sexually motivated murder and was reconvicted in October 2005. A full inquiry was commissioned as a result of the offence - the H. M. Inspectorate of Probation report (2006), hereafter referred to as 'The Rice Report'. I am making

particular reference to Rice within this thesis as his particular case was seen by the men in my study as affecting their opportunities and impacting on their identity.

Most prisoners deemed ‘dangerous’ (by the courts at point of sentence) are not serving an MLS but some other indeterminate sentence (see Table 1.4). However, proving they are not dangerous is a prerequisite for MLS prisoners in order to transfer to open conditions. Prediction of future offending and risk assessment become most pronounced when men are reaching the end of their custodial period and approaching release. The impact of absconds from open prison (see section 2.7) and the commission of further serious violent offences caused by men released under probation supervision (see Table 2.1) have exacerbated the concerns facing decision makers considering release. As will be seen in Table 2.1 the number of further serious offences committed by men under probation supervision are substantially higher than the number of second murders committed by MLS prisoners on life licence (see Table 1.4). The MLS prisoner during his prison career will be expected to demonstrate he no longer poses a risk of harm to others. In order to achieve this, he will become immersed within dominant discourses designed to elicit change and exert control over him. The ensuing sections will examine these in greater detail.

Table 2.1 showing number of murders committed as a further serious offence (FSO) by men released from prison under probation supervision April 2004-March 2009. Source NOMS 2009

Date	FSO Murder	Date	FSO Murder
2004-5	60	2007-8	47
2005-6	38	2008-9	28
2006-7	74		

2.3. The Rise and Fall of the Rehabilitative Ideal

Rehabilitation of offenders emanated from the positivist school of criminology where crime, like other social phenomena (particularly during inter and post war years) availed scientific investigation. Positivism favoured the indeterminate sentence as it gave the time needed to produce results. Release from prison was determined by experts in the field. The shift from offenders being seen as rational actors, who needed to be punished, was replaced by a need to ‘treat’ the offender. According to Wootton (1963) this move was at its strongest during the post World War two years. During this time crime was attributed to social deprivation and psychological problems; criminals therefore needed ‘treatment’. Special measures were implemented for those deemed dangerous. The Mental Health Act

(MHA) 1959 introduced to the courts hospital and detention orders for offenders. This move highlighted the importance of the opinion of the medical profession in determining who should be detained and ‘treated’ and consequently who was ‘dangerous’⁵⁴. During the 1960s and 70s, reclassifying dangerousness as violent and sexual behaviour resulted in detention and treatment under MHA legislation and/ or imprisonment. A dangerous person is not necessarily one with a mental health problem. Holmes and Soothill (2005:596) suggest ‘...we would sometimes rather believe that normal people are simply not capable of the most evil crimes...instead the perpetrator must be sick’. Seeing crime as an illness and the perpetrator in need of curing upholds the use of protective and preventive sentencing patterns. By attributing psychological and social factors to acts of crime, a rehabilitation philosophy emerged, combining psychotherapeutic techniques alongside treatment for a plethora of addictions. Men who have served long terms of imprisonment will have participated in some, if not all, of these rehabilitative and therapeutic programmes.

The impact of rehabilitation was questioned during the 1970s when treatments were producing few results, leading to the classic statement of Martinson (1974) that ‘nothing works’. After much debated arguments, a ‘something works’ perspective, emerged, evidenced in part by the rehabilitative work in special units such as Grendon and Barlinnie⁵⁵ for example see Boyle (1977). According to Hudson (1993) success cannot be guaranteed and there is no single programme that has proved successful with all kinds of offenders.

2.3.1. Prison Programmes: Forced Change and Compliance

The men in this study during their MLS have undertaken many prison-based programmes. This thesis is not concerned with theorising or analysing the therapeutic regimes within establishments. However, participation on and exclusion from such programmes may impact on identity and self-perception of the prisoner; it also impacts on the identities

⁵⁴ Part V of the 1959 MHA s60 gave power to detain in hospital those offenders deemed ‘dangerous’ due to the nature of the offence. An additional safeguard was s65 giving power of higher courts to restrict the discharge from hospital; s71 allowed for prisoners to remain in hospital during Her Majesty’s pleasure. Further sections 72-77 legislated for transfer to hospital from prison and as part of the remand process. The 1959 Act remained in place for 24 years. It did establish Mental Health Review Tribunals to safeguard patient rights and further patient rights were established under the 1983 Act. However, the 1983 MHA under sections 35-49 retained the legislation of 1959 Act in many respects as did the most recent legislation The 2007 MHA. Those detained under MH legislation had little comfort of securing release and were subjected to enforced treatments under the 1959; 1983 and 2007 Acts.

⁵⁵ Prisons housing, at times, the most violent and often notorious offenders.

imposed upon them by practitioners as they attempt to assess individuals within a risk framework. The main form of rehabilitative work undertaken within prison over the last decade, by prison, psychology and probation staff has been of a cognitive behavioural nature.

Probation and psychologists'⁵⁶ intervention with offenders has been based on cognitive behavioural approaches, adopted under the 'what works' umbrella introduced during the reorganisation of probation into the National Probation Service⁵⁷. The 'what works' debate has been well documented and critiqued (see Mair 2004). The intention in this chapter is to locate cognitive behavioural approaches within a framework that informs the reader of the discourse in which prisoners are placed - alongside the political context of correctional thinking and the justification for continued imprisonment, all of which impact on the identity of the prisoner.

The 'What Works' model for programmes is focused on cognitive behavioural work. Cognitive behavioural approaches aim to remoralise or ethically reconstruct offenders by pro-social thinking (Kendall 2004). Although this view can be accused of being biased and advocates of the approach would reiterate that distorted thinking is changed in order to help prisoners change themselves, there is evidence emerging that cognitive behavioural programmes are having less impact than was originally envisaged (Mair 2004, Kemshall 2004, Rose 2000). Rose (1996) refers to the expectation to think ethically as 'ethico-politics' and attributes this philosophy to the bifurcation of groups; those who can be 'remoralised' and those who cannot. Those who do not conform are expected to undertake the necessary steps to reconstruct. If they do not they are destined for indeterminate incapacitation designed to contain the dangerous and manage their risk. Therefore the consequences of not partaking in cognitive behavioural programmes are serious for many categories of long-term prisoners.

Lewis (1971) suggests prisoners could 'cheat' by participating in programmes in which they had no belief or by disingenuous expressions of remorse. Supporters of rehabilitation/treatment would argue that no one is likely to benefit if they are not a fully

⁵⁶ Probation staff have been course facilitators alongside psychologists and prison officers on offending behaviour courses within custodial institutions for many years.

⁵⁷ As of April 2001.

consenting participant (Cullen and Gilbert 1982; Rotman 1990). However, for MLS sex offenders and other categories of sex offenders, consent becomes obliterated; if the prisoner fails to co-operate, he is accused of not addressing the cause of his criminality. He is compelled to attend by his need to be seen to be progressing through the system; consent is replaced by compliance. Failure to comply results in extended imprisonment. The one size fits all approach to programmes results in the misconception that prisoners are all the same. Crow (2001:5) argues for the need to make the distinction between treatment of 'individuals' and treating people 'as individuals', claiming it is all too easy to treat offenders as a homogenous group. In the context of the unique and often highly personal act of murder, this highlights the difficulty of evaluating the effect of participating in cognitive behavioural group work.

Rehabilitation, when practiced, is currently done so in terms of risk reduction. Prisoners take part in courses such as anger management, sexual offending, healthy relationships and drug and alcohol awareness as a means to prevent re-offending and hence reduce any risk to the public. According to Garland (2001:176), 'rehabilitation is thus represented as a targeted intervention inculcating self controls, reducing danger, enhancing the security of the public'. Rehabilitation, when offered, has moved from individual reform to crime control. Emphasis on improving self esteem and developing insight has shifted to: 'protecting the public and rescuing "future victims" by rehabilitative work, rather than the individual' (Garland 2001:176). Rehabilitation no longer claims to be the overarching ideology of the penal system, becoming subordinate to retribution, incapacitation and risk management (Garland 2001).

Disillusionment with rehabilitative aims led to a return to punishment and public protection (Cavadino and Dignan 1992). The Probation Service moved from rehabilitation to risk management and managerialism under the 1991 CJA (see Bhui 2002). Tuddenham (2000:173) stated: 'The current practice remains defensive, it over estimates dangers, errs too far on the side of caution...the prisoner is all too easily forgotten and the question of his liberty loss all too easily achieved'. The result is continued imprisonment for prisoners serving indeterminate sentences, when risk assessors do not want the ultimate responsibility in recommending release.

The emphasis within the early part of the twentieth century was to treat, cure and eradicate crime (Garland 1985; Hudson 1993). These practices dominated penal policy and gradually fell into disrepute. The emergence of the docile prisoner as a body of knowledge described by Foucault (1977) is illustrative of the 'normalising' response to criminality, which endeavoured to reduce the gap between the 'normal' and the 'deviant'. Normalising techniques have targeted personality, social circumstances and choice at various times in history (Simon 1988). According to Hudson (1993) the tension between penalising and normalising responses to crime culminated in a shift from disciplinary to actuarial justice.

2.4. Actuarial Justice- From Change to Management

Feeley and Simon (1992:449) identified a paradigm shift in the criminal process which they termed a move from 'old penology' to 'new penology'. Old penology was characterized by concern for the individual, immersed in concepts such as guilt, responsibility and obligation. This is what the public expects a criminal justice system to achieve. Diagnosis, treatment and intervention for individual offenders underpinned 'old penology', which viewed crime as worthy of a response, holding to account the 'guilty'. 'New penology' is 'actuarial', concerned with techniques for identifying and classifying groups according to dangerousness. New penology was a strategy to regulate and manage danger, rooted in the mechanisms of power and knowledge (Feeley and Simon 1992). The Foucauldian language situates actuarial justice within a specific discourse; power and the classification and management of the dangerous. It is within this discourse that the justification for indeterminate imprisonment is upheld and maintained. The emphasis is on risk rather than reformation; classifying punishment as an objective leaves little room for rehabilitation even if such rehabilitation is framed within a re-moralising context. Actuarial justice according to Feeley and Simon is not an ideology in the usual sense of a set of beliefs and ideas constraining action. It is: 'powerful and significant because of lacking a well articulated ideology and identification with a specific technology; its amorphousness contributes to its power' (1992:174).

Rather than seeking to change people, an actuarial regime seeks to manage them in place (Simon 1988). The MLS straddles both paradigms, seeking out 'normalisation' and compliance vis-à-vis interventions during the custodial period, and actuarial justice manages, surveys and controls dangerous groups through indefinite incapacitation using risk factors as the tool for management both in custody and in the community. As Castel

(1991:281 original emphasis) observes ‘the notion of a *subject* or a concrete individual’ is dissolved and replaced with ‘a combination of *factors*, the factors of risk’. The target of criminal justice is no longer the offender but the community of potential victims in alliance with public perceptions of increased violence and danger; management is enacted through incapacitative legislation including the MLS.

Identifying and classifying groups who will be the subject of monitoring and surveillance is crucial to actuarial justice. It is within this context that a MLS sex offender is at most risk of indefinite incarceration and, if released, subject to intense monitoring and surveillance via supervision and electronic techniques⁵⁸. Prisoners characterised as dangerous, under the principles of new penology, have forfeited the right to be deemed low risk even when released from custody.

Risk experts and risk assessment have not increased confidence with regard to risk management, but given rise to a general mistrust in the experts, as in the case of Rice. The Rice report criticised the assessment of the prison psychologist to recommend a move to open prison. The psychologist in question was also delivering the treatment programme. The report concluded that an independent psychologist would be able to determine more objectively progress or cause for concern. The commissioning of independent psychologists is common practice among lifers who are seeking fresh evidence to present to the Parole Board, often based on paper reports derived from the personnel within the prison as much as time spent with the prisoner. If, as the Rice Report is suggesting, an independent psychologist observes and interviews all those involved in treatment programmes the results could lend themselves to being more objective. However, there are severe cost implications. Furthermore, although reports presented to the Parole Board and subsequently accepted by them, may be done so on a perceived basis of being objective, they may be equally as subjective. Maguire et al (1984:261) noted the use of intuition in report writing when examining factors relating to how staff considered dangerousness, citing one case example where one report stated: ‘there is something about him that I cannot identify which is slightly offbeat’. Risk perception is grounded in personal experience, group interaction and immediate locale (Lupton 1999).

⁵⁸ An example would be the electronic tagging of sex offenders in order to monitor movement.

Risk and danger are coterminous terms in the lives of indeterminate sentence prisoners. However public demand for satisfaction and reassurance of safety can never be fully met. West (1996:55) points out: 'For unusual individuals who have committed particularly nasty sex crimes the demand for certainty that they will never re-offend in a similar way is almost impossible to meet.' As Furedi (2002:62) states: 'risk is intellectually defined in relation to our inability to know. What is at issue is not just knowing but the impossibility of knowing'. This is compounded by local communities looking for guaranteed protection from risk (Giddens 1990, 1991). The following section will consider the risk assessment process for lifers together with policy implications for MLS prisoners prior to reaching open conditions.

2.5 Risk Assessment -Policy and Practice in Custody

The Prison Service assessment model used with lifers originated from HMP Wakefield⁵⁹. Clark et al (1993) developed a risk assessment model in order to focus on behaviour warranting intervention and change, together with identifying patterns of behaviour associated with the risk of re-offending. The assessment framework of Clark et al (1993) was built into the LSP and was seen as part of the rehabilitative process. Placing risk assessment within a framework that has been established to produce enforced personal change, as discussed in section 2.3.1, is problematic. The question of feigned responses and the reliability of the methodology used have not been given full consideration either from a policy or practitioner perspective.

The risk assessment process for lifers, on average, commences 11 -12 years before release, offering ample opportunity for 'reformation' or continued incapacitation. Mitchell (1992:231) considered the implications of leaving assessments too late and commented: 'Even before trial much can and should be achieved to understand the offence and identify the factors that led to its commission.'

The Prison Service makes use of observational reports by prison staff when assessing behaviour. However these reports can be subjective and poorly managed, particularly if staff receive little training in how to interpret behaviour, report it accurately and communicate findings to other professionals (see Briggs 1995; Doherr 1996; and chapter

⁵⁹ HMP Wakefield being one of the main traditional lifer centres at the time.

6- 8). Information may be negated or misinterpreted. According to Cullen and Newell (1999:135) 'the assessment of risk relating to life sentence prisoners has always been an area which combines the polemic of politics and the argument of mental health professionals.' Risk assessments are usually clinical assessments involving the judgment of professionals alongside actuarial predictors based on large numbers of people who have particular characteristics. The more unrepresentative or extreme a person is the less a predictor can be relied upon. Therefore assessing the risk of prisoners who have committed unusually heinous offences by such methods will become problematic. Towl and Creighton (1997: 14) view risk assessment as: 'involving an estimate of probability of a specified behaviour occurring and a consideration of the consequences of such occurrences.' For MLS prisoners the risk assessment should be based on the likelihood of him committing another murder. The difficulty in assessing the accuracy of risk and predictions of violence has been summarized by Walker (1996), who argues that past violence is the best predictor of future violence but recognizes that prediction of violence can never be an exact science. Kemshall (1996:137) points out that 'assessments cannot prevent risk'. The difficulty in assessing risk was succinctly encapsulated by Von Hirsch 'no one not even the offender can be certain they will not re-offend' (quoted in Floud and Young 1981:39). The moral dilemma of balancing freedom versus control remains. Risk assessments are an everyday occurrence for prisoners from point of sentence and will be used to determine transfer into open conditions and ultimately release. The Parole Board requires assessments answer three questions: how likely is an offender to re-offend and how seriously; what has taken place in custody and the community to reduce this risk and when is it safe to release the prisoner (Nichol 2006). The Parole Board will see any proposed risk to the public as the overriding and determining consideration. As the then Chairman of the Parole Board stated in his speech to the Centre for Crime and Justice Studies (Nichol 2006:4): 'any risk assessment is only as good as the information on which it is based'. The final section of this chapter will examine the open prison within the context of risk and danger.

2.6 The Rationale, Purpose and Function of the Open Prison

The history of the open prison in Britain dates back to the 1930s. Sir Alex Paterson coined the famous and much quoted aphorism 'Men come to prison as a punishment not for a punishment' (Ruck 1951: 23). Paterson was disillusioned with the prison system of the time and sought to provide training as a companion to retribution. The closed prison of the

time did not lend itself to such purposes leading Paterson to conclude: 'If the institution is to train...for freedom, it cannot train ...in an atmosphere of captivity and repression' (Ruck 1951: 96)

The result of Paterson's insight was the opening of the first open prison at New Hall Camp in 1933. The open prison was in fact a satellite of HMP Wakefield, the only difference being that it had no walls or boundaries and the men slept in wooden huts. The most noteworthy achievement recorded of New Hall in its first 15 years was the lack of absconding.⁶⁰ Absconding from open prison has over the years become more pronounced and will be discussed later within this chapter. HMP Leyhill opened approximately 10 years after New Hall and was one of the first open prisons to take life sentence prisoners. At the time of this research there were 14 open prisons within England and Wales, although not all catered for life sentenced prisoners or sex offender life sentence prisoners (see Chapter 5). The proportion of the prison population in open prisons has been declining significantly in recent years in particular the number of MLS prisoners (see Table 2.2).

Paterson's insight was not fully developed by the Prison Service, as there was no definitive statement produced on what an open prison should comprise. In 1979 the working party on open prisons (Smith 1979) called for a clear statement of purpose. This never occurred (Newell 1996). The 1996 internal review of open prisons confirmed that the aims of open prisons were based on the views of individual governors. There was no formal policy in place to justify their existence and further to this each regime was diverse in approach and facilities. In respect of long-term prisoners the 1996 review offered the following definitive statement:

For longer term prisoners who have spent a substantial part of their sentence in closed conditions and have been fully risk assessed, they present an opportunity to prepare them for re-integration into society in an environment that is without the tensions and pressures of closed prisons. It is considered that releasing prisoners by this method represents the best chance of successfully returning to society. *Consequently by spending the end of their sentence in these conditions they help to protect the public* (Newell 1996:16-17 my italics)

The rationale for the greater protection of the public is drawn from the belief that reintegrating with members of the community via open conditions, and being afforded an

⁶⁰ As noted by Sir Lionel Fox as former chair of the Prison Commission only 7 absconds in 15 years cited Jones et al (1977:4).

opportunity to experience less strict regimes than if released from closed prison, reduces the ‘bitterness, hatred and tension that is generated in that environment’ (Newell 1996:5-16) and subsequently translated into further offending.

In order to achieve the above, the 1996 reviewers considered that the environment within open prison should be one in which the prisoner could assume personal responsibility with as much choice as possible within the constraints of the regime. The activities and opportunities provided within open prison should accord with those the prisoner would meet in society, and furthermore the prisoner should participate in these activities and perform in a way that is commensurate with other members of society. Open prison affords many privileges to the prisoner and is less physically secure than members of public are probably aware. However, the rules and regulations of the prison should be those that are specific to open conditions and not residual from closed prison (Newell 1996).

Jones et al (1977) provide one of the only British studies dedicated to open prisons. According to Jones et al (1977:1): ‘the open prison begins to appear like a contradiction in terms: a denial of the essential nature of the institution of which it purports to be merely a variant.’ Whilst the open prison is a part of the penal system, it can be seen to be a sub division of the prison system; it does not contain criminals in a totally regulated environment, it allows them semi restricted freedom and access to the outside world. One of its functions is to mitigate any detrimental effects of time spent in closed prisons (see chapter 3). Prisoners have much more freedom to interact with each other with less monitoring and surveillance. The prisoner is free to wander at his leisure around the prison grounds and has keys to his own room. There are no ‘visible’ fences or walls to consider.

Prisoners within closed prisons are able to self govern without direct intervention during association periods, work and educative activities. Within the open prison the prisoner is frequently without direct supervision. According to Jones et al (1977) the open prison is a necessary pre-requisite to counteract the characteristics produced by a total institution, this being one which confines inmates and all their activities within a single establishment (Goffman 1961).

The 1996 review confirmed that prisoners must have the opportunity to establish community links. Open conditions are designed to test the lifer in conditions as close to life outside the prison as possible. The purpose of open prisons is to enable the prisoner to gain a sense of community via working out in the local community, re-establishing himself with family, and, ultimately gaining employment and accommodation ready for release. The Lifer Manual, at the time of the 1999 Inspectorate (HM Prison and Probation), stated the purpose of open conditions as being: ‘to test lifers in more challenging conditions before being considered for... release; and provide facilities for supervised outside activities and temporary release in preparation for life on licence’ (1999 10.2 para 3.7). They also noted some lifers were ill prepared for the transition from closed to open conditions. Cullen and Newell (1999: 115) state: ‘There are doubts that the experience undertaken and the behaviours observed in prison can be relevant practice for life after prison. Much more could be done to assist in preparing lifers for the realities which face them.’ Transferring unprepared men undoubtedly adds fuel to the concerns held by the public living near open prisons.

During the 1950s and 60s open prisons were used for economic reasons as they represented a cheaper form of imprisonment due to fewer staff and regime resources. The annual cost per prisoner at HMP Leyhill in 1996 was £16,201 making it one of the most expensive at the time (Newell 1996). The 1996 internal review was unable to ascertain the cost per prisoner at HMP Shaw⁶¹ as the prison was, (then and now) a multifunctional site, which did not show separate costs. Currently the average cost per prisoner in open prison ranges from £16-21,000⁶² in comparison with £36,000 in closed prisons⁶³ (MOJ 2010). It is therefore still a cost effective resource.

Open prisons predominately accommodate prisoners who are considered to present little danger to the public should they abscond. They also accommodate lifers who have gradually de-categorized to lower security categories as they near the end of tariff. These prisoners have committed violent crimes and the impact of imprisonment may impact on how they cope and adapt to the new regime, a regime that has fewer staff available to

⁶¹ HMP Shaw the open prison for this research (and HMP Blaine the closed feeder prison) are fictitious names I have given the prisons for purposes of anonymity.

⁶² The cost per prisoner needs to be considered in terms of extra incomes that are offset such as services provided to other prisons. For example HMP Leyhill provides printing services.

⁶³ The average cost of £36,000 increases dramatically for those in maximum security prisons and young offender institutions.

guide and support. The average number of prison officers on duty per day at HMP Shaw during this research was seven.

2.6.1. Implications for Staff within the Open Prison

According to Crewe (2006) prisoners have recognized the erosion of power held by prison officers, the result being less autonomy to make decisions that impact directly on prisoners' lives. In the open prison, the interaction between prisoner and prison officer is different to that within closed (Jones et al 1977). The idea of working in a less secure environment with limited control over prisoners can be difficult. Jones et al (1977) found on the one hand officers regretted the decline in security, whilst at the same time welcoming the welfare oriented and interpersonal aspect. This contradiction in focus resulted in conflicting instructions and lack of teamwork, conflict with regard to security,⁶⁴ flexibility and risk management culminating in a lack of direction, aim and purpose. Mitchell (1992) also noted variations in daily regimes, management styles and the facilities available across open prisons. The flexibility of staff in interpreting prison regulations also varied. The latter he claimed: 'Very important since the needs of lifers differ enormously and sometimes an imaginative interpretation of regulations is necessary to meet the requirements of particular cases' (1992:228).

There are both similarities and contradictions between the findings of Jones and Mitchell, which can be attributed to the time period in which the research was undertaken. Changing attitudes towards prisoners and imprisonment as indicated by Crewe (2006) are also attributable, together with changes in dominant discourses moving from rehabilitation to risk management. Working with diverse groups of prisoners in a challenging and testing environment such as open conditions creates difficulties for staff (see Chapters 7-8). In addition, working with prisoners can have personal ramifications for prison officers (Crawley 2004). Jones et al (1977) criticised the lack of training for staff working in open conditions. The training required for staff working with MLS prisoners in open conditions needs to incorporate an understanding of their psychological and emotional needs as a result of indeterminacy and be perceptive to allowing growth in confidence and self-esteem, together with practice and knowledge based experience on preparation for work, disclosure of offences, developing and maintaining interpersonal relationships and

⁶⁴ Jones et al 1977 found fewer recorded punishments.

increasing independent daily living skills. These roles and duties differ from the containment and security element, which predominate in closed prisons. Newell (1996) questioned whether the majority of functions in open prisons should be carried out by discipline (prison) officers, leading to a strong case to re-examine what tasks can only be performed by prison officers for legal reasons. Newell (1996) avoided suggesting that 'civilian' staff perform a majority of functions, although his suggestion implies that the disciplinary role impedes the rehabilitative and reintegration process so crucial for successful release.

2.6.2. Working with MLS Sex Offenders

HMP Leyhill has accommodated MLS sex offender prisoners for many years. HMP Shaw at the time of this research had just started to take such prisoners. The experience for staff is considered in chapters 6-8. This section will discuss the implications of working with MLS sex offenders in open conditions.

Protecting the public has become the dominant theme of penal policy. Sampson (1994) on discussing the demonic idioms pertaining to sexual offenders claims: 'A crude stereotype of a violent calculating and perpetually dangerous offender has been built up in the popular press and ... in the 'respectable' writing about sexual crime' (1994:256). Sex offender murderers can be termed as instrumental offenders whose offences are characterized by planning and calculation (Christianson et al 2007, Grubin 1994). See Prentky, Burgess and Rodous (1989) for sexual homicides and Brittain (1970) for sadistic murderers.

Sex offenders, regardless of category, are represented as dangerous un-reformable creatures who are marked by their 'otherness'. The sex offender is according to Hudson (2005:56) 'so concerned with identification as a sex offender that it would be difficult to establish any other identity' this proposition will be considered within chapters six and seven. Concealed beneath apparent normality; once identified they are monitored in accordance with the principles of actuarial justice; Garland (2001) points to the excessive urge to manage them with diminishing concern for their liberties.

The results from sex offender programmes are mixed; success is determined on reducing, rather than eradicating, offending: there is no 'cure'. The language of condemnation and punishment is the official discourse, 'purporting to be the expression of public sentiment,

taking the place of the professional judgement of penological experts' (Garland 2001:9), particularly for those who commit crimes against children under the age of sixteen. The prisoner hierarchy contributes toward such condemnation, whereby sex offenders who offend against adults condemn child sex offenders. Symbolic Interactionists (see Mead 1934; Becker 1963) would argue that the cumulative process of assigning undesirable traits (such as sex offender) to prisoners by staff, other prisoners and the public can lead to prisoners believing they are deserving of their situation (see Hudson 2005). Such situations result in segregation and verbal and physical abuse from other prisoners or staff causing, tension for all concerned. For sex offender MLS prisoners, the continued assignation of undesirable traits, as demonstrated by public discontent and prolonged detention within closed conditions, has been a constant feature of daily life and will impact on how they view themselves and are viewed by others.

HMP Shaw (the open prison) and HMP Blaine (the closed feeder prison) form the sites for this research and are managed by one Governor. Probation officers and psychologists work between the two sites. HMP Shaw is situated within a small rural community and prison personnel have to continually reassure local residents and councillors as to the safety and appropriateness of housing lifers within their community. It is interesting to note that the 1996 internal review rejected the idea of HMP Shaw housing any prisoner serving over 12 months due to the potential impact on HMP Leyhill which at the time had a lifer population of 25 per cent. The Home Office decision to allow MLS sex offenders into HMP Shaw was contentious and resulted in opposition from the community.

Hudson (2005) whose research was conducted with 32 sex offenders⁶⁵ undertaking prison and community based sex offender treatment programmes gives a good account of the public perceptions and the popular image of sex offenders. In chapters six and seven I will use interview data to suggest that the difficulties for the men at HMP Shaw at the time of my research was, regardless of offending status, they were embroiled in such perceptions and ultimately the label 'murderer' compounded the concerns held by the general public in the geographical area. Like Hudson's sample, my participants had little doubt regarding 'societal indignation' toward them (2005:55)

⁶⁵ One of Hudson's participants was convicted of murdering a victim, however he was never charged with a sexual offence.

The growing number of absconds from open prisons in general (see section 2.7) and in particular the absconds from HMP Shaw did not help the situation, resulting in growing local concerns and lobbying of MPs to reassess the decision to transfer MLS sex offenders into open conditions. The ensuing difficulties facing HMP Shaw can be located in two areas; firstly the perceived reluctance of staff within HMP Blaine to assess prisoners as suitable for transfer into open conditions until a period of coursework and on-going assessment has been undertaken - a move endorsed by the Home Office. There are emerging similarities with the intervention in parole policy in 1983 (see chapter 1:1.3.4) known as the 'Brittan Rules' (after the then Home Secretary Leon Brittan), which had serious ramifications for lifers transferred into open conditions.⁶⁶ Many prisoners were subjected to a return to closed conditions in order to fulfil the requirements of their new tariff. Maguire (1992:187) correctly termed such action as 'the heartless treatment of individual prisoners who had reached the penultimate stages of release'. The devastation felt by such prisoners then and now should not be negated. In part, such action is due to the response initiated from the case of Rice and the response by enquiry into this case:

We strongly recommend that, if the PPG⁶⁷ can be made available and has proved to be a reliable indicator of deviant sexual preferences, no sex offender on an indeterminate sentence should be moved to open prison conditions without undergoing this testing. An alternative option is to pursue a programme of testing with an offender using a polygraph⁶⁸ (HM Inspectorate 2006:24-25 PARA 7.16).

Subjecting men to a PPG prior to transfer to open conditions and basing the results on whether such a move will take place is contentious. The issue of the prisoner's human rights becomes pertinent. The practice at HMP Blaine whereby sex offender MLS prisoners are kept in closed conditions for a period prior to the transfer to open is indicative of the concern such prisoners pose particularly in small communities.

The second area where difficulty is experienced when men are detained in closed conditions is the impact on future interpersonal relationships between prisoners and staff. Staff from HMP Shaw will have assessed the prisoner as suitable for open conditions and commenced the rapport building exercise either at HMP Shaw before the prisoner is

⁶⁶ In *re Findlay* [1985] 1 A.C. 318, four prisoners in those categories brought proceedings for judicial review in which they challenged the lawfulness of the new policy, on the ground that they had suffered loss of expectation of parole.

⁶⁷ Penile Plethysmography – a test used to measure physical sexual arousal in response to a range of images, can be used to measure deviant sexual preferences.

⁶⁸ A lie detector.

returned to HMP Blaine to undertake the work described above, or in the original closed prison prior to attaining category D status. The relationship between the two becomes one of mistrust and betrayal when movement is delayed. The personal impact on the prisoner being held indefinitely in closed conditions as a result of public concern and political acceptance will understandably be negative (see chapters 6-8). There is no evidence from a rehabilitative or therapeutic perspective as to any 'cure' for sex offenders. The continued detention therefore within closed conditions is a preventive and reactive measure based on fear of false positives. Community concerns regarding any offenders can be justified in the context of men who are released and go on to commit another serious further offence on release (see Table 2.1).

2.6.3. Open Prison and Risk Management

The prisoner moves to open conditions when the tariff has been served and the punitive retribution element met. The prisoner must have progressed sufficiently with regard to attitude, behaviour and acceptable risk before the Parole Board will consider any move. Risk is the key factor in the decision making process. As the main facilities for addressing offending behaviour and resources for dealing with core risk factors are in the closed estate, the Parole Board has to be sure that the lifer is ready and able to move into open conditions, ensuring they present a minimal risk of harm to others.

Practitioners and academics agree that predicting risk in the lifer population is problematic. The literature on risk assessment is vast (see Buchanan and Leese 2001, Hood and Shute 2000, Monahan et al 2001) When looking at risk factors such as drugs, alcohol and anger, some lifers are not given the opportunity to attend courses in closed conditions and are refused a move to open conditions as they are still deemed a risk. In these cases a Catch-22 situation emerges for these prisoners, exacerbated by the increased use of indeterminate sentences (see chapter 1).

In 1999 the Inspectorate (HM Prison and Probation paragraph 10.5) documented a number of examples where lifers had arrived at open conditions without undertaking basic work on offending behaviour, noting: 'It should not be possible to reach this stage on the basis of co-operative prison behaviour alone.' Coyle recognised the obligation of the Prison Service to offer prisoners an opportunity to spend time in prison constructively and prepare for release: 'The concept of opportunity is recognition that in respect of rehabilitation that

is of change from within, the prisoner is master of his own destiny... The need is to give the prisoner, for him to take, as much responsibility as possible for his own life and actions' (Coyle 1992:6).

Testing the lifer in open conditions is a necessity in order to assess risk. Men who have been removed from any form of outside community life have not had the opportunity to make decisions. According to Giddens (1994:74-75) 'life style choices are constitutive of the reflexive narrative of self'. Life style choices become a reality once the MLS prisoner reaches open conditions. They are no longer fully imposed or determined by others. Whilst there is an expected air of cautiousness the lifer has to be given the opportunity to re-engage in situations that are akin to life on the outside and resume the process of self-responsibility. Mitchell (1992:227) found it was largely taken for granted that only when lifers reach open conditions will they have sufficient freedom to make decisions for themselves about what they do, so that any useful assessment can be made about how they are likely to behave on release. Mitchell's research (1990) indicated that fewer than three in five lifers spend time in open or semi open conditions; the average time spent being just over three years one month. The situation had improved a decade later when Padfield and Liebling (2000) found prisoners were not released unless from open conditions⁶⁹. Without such an opportunity the majority of lifers have little hope of persuading the Parole Board they are ever suitable for release.

At the end of 2006 there were growing concerns regarding the use of open prisons for serious offenders. Many commentators including politicians, criminologists and practitioners, saw the use of open prison for high-risk offenders as a means of making room in closed conditions for the ever-growing prison population within England and Wales. The Observer (31/12/06) claimed to have had sight of a report compiled by probation officers at 10 open prisons expressing concern as to the high risk some prisoners posed. The report indicated that prisoners were inadequately risk assessed and inaccurately risk classified. If these findings are justified, risk management becomes an even more contentious and uncomfortable area to work within. John Reid claimed that as Home Secretary (2006-2007) he had rejected up to 41 percent of the Parole Board's recommendations to transfer serious offenders into open prison, a figure he claims being

⁶⁹ The Parole Board will always have the option to release directly from closed conditions and have on occasions done so with MLS prisoners after Padfield and Liebling's research.

higher than any predecessor (BBC News Report 12/01/07⁷⁰). The Rice Report (2006:59) while supporting the use of open conditions clearly reiterated the problem of sending high-risk offenders into such establishments:

..we believe that consequent expectations about open conditions need clarifying with all involved, including confirming that there will be a clear priority focus on giving proper weight to the nature of Risk of Harm to others still posed by the prisoner. *We appreciate that this would be difficult to establish, raising questions for example about how best to handle prisoners whose release plans get 'stalled' while in open prison conditions (italics added)*

The Chief Inspector of Prisons' (2007) inspection at HMP Leyhill exemplified this situation. One of the Inspector's main concerns was the level of risk assessment undertaken on prisoners prior to transfer into open conditions, the ramification being that sex offenders and other high risk offenders are placed in open conditions, yet were unable to benefit from the regime as they are unable to go outside the perimeter of the prison - thus undermining the ethos, purpose and principle of open conditions. HMP Leyhill is often referred to as 'the jewel in the Prison Service crown', in part due to the resettlement services provided for lifers. However, at the time of the inspection HMP Leyhill had 36 sex offender lifers, of whom only six were engaged in outside activities. Those who had committed sex offences against children could not participate in outside education, as the college refused to take them. Further to this, opportunities for work placements were equally restrictive as employers also rebuffed sex offenders. The core objective of HMP Leyhill – resettlement - was compromised. The inspector noted that alternative ways of testing risk 'robustly but fairly' was needed in the absence of education and work opportunities, a dilemma in terms of the purpose and function of open prisons. The impact on the prisoner in this situation is either a backward move into closed conditions or remaining in limbo within open; neither is conducive to the effective management of MLS (or other indeterminate sentence) prisoners. As seen in Table 2.2 below the number of men serving a MLS in open prison has declined since the commencement of this thesis in 2004.

⁷⁰ <http://news.bbc.co.uk/go/pr/fr/-1/hi/uk/6255695.stm>.

Table 2.2 – Number of Males serving a MLS in Open Prisons (England and Wales) 2002-2007 source MOJ 2009

Males	2002	2003	2004	2005	2006	2007
Mandatory Lifers in all prison establishments	3,464	3,566	3,583	3,724	3,949	4,272
Mandatory Lifers in OPEN establishments	355	341	363	343	294	252

The lifer who progresses to open conditions should present minimal risk of absconding. However they do abscond from open conditions for a number of reasons, including the stalling of release plans (see chapters 6- 8). Absconding from open conditions is one of the most contentious areas regarding risk management and one in which media interest is heightened.

2.7. Absconding From Open Conditions – The impossibility of Prevention

The 1996 internal review of open prison failed to produce any clear reasons as to why prisoners absconded. They recommended absconds be treated with a six month penalty and all absconders be prosecuted. The reality for lifers is further imprisonment in closed conditions for periods of years (see chapters 6-8). Between the years 1999-2006 22 murderers and seven rapists absconded from HMP Leyhill. In comparison for HMP Shaw the number of absconds during 2005-6 was nine, in 2004-5 it was 19 and during 2003-4 it was 35 (Table 2.3 shows the numbers of absconds from prison 1997-2007). HMP Shaw therefore had more prisoners abscond when the prison held determinate sentence prisoners and non-sexual offenders. The Prison Service had during these periods of time no information relating to how many men (or women) remain at large after absconding, a situation justifiably causing concern. Prevention of absconding is virtually impossible within open conditions. Having clear prison objectives, consistent responses from staff and careful assessment will minimize the risk. However this is not always the case (see chapters 6- 8). The race to return to a social reality and managing the competing demands of co-existing/intersecting identities within the community is one of the difficulties experienced as a result of moving to open conditions (see chapters 6- 8).

Table2.3 showing number of absconds 1997-2008. Source NOMS 2010

Year	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Absconds	1102	942	959	812	766	876	1304	974	730	576	545	392

The 1996 internal review concluded that open imprisonment is not an easy option and requires considerable willpower to resist absconding, especially when personal difficulties impede progress. Of the 3217 prisoner absconds between April 2004 and March 2008, 60 were MLS prisoners, confirming that other categories of prisoners present more risk within open conditions (MOJ 2010).

2.8 Conclusion

Academic arguments demonstrate that dangerousness is a subjective and emotive notion. Those seen as dangerous follow the routes of imprisonment, treatment or both⁷¹. The arguments have shown that we have gone from a rehabilitative focus, acknowledging that ‘some things work sometimes’, to a risk assessment culture with rehabilitation being marginalised, depending on the nature of the crime committed, the discourse, resource and orientation of the service/agency and individuals. The impact on the identity of the individual will in part be determined according to the prevalent ethos and dominant discourse; reformable and changeable via rehabilitation or non reformable and a risk to be managed via actuarial techniques. If risk assessment is the more powerful discourse, with rehabilitation being a subordinate, preparation for release via open conditions in light of cases like Rice (opcit) becomes an even more complex and demanding process. The difficulties facing those charged with releasing men from prison once defined as dangerous become apparent particularly when examined within a framework of risk and risk management.

The chapter has considered the purpose of open prisons. The Rice Report found ambiguity in the role of the open prison for lifers, seeing open prison as both a strength and a weakness of penal policy. Further to this, the report recognised that: ‘an intelligent prisoner can form the expectation that all he has to do is avoid mistakes and he can expect release’ (2006:55). Within this context the concept of ‘deceiver’ emerges (see chapters 6-8). The implications of the Rice case will impact on lifers in and awaiting transfer to open conditions. The decline in numbers of MLS prisoners in open conditions (see Table 2.2) is indicative of the implications.

⁷¹ Another category of dangerous offender is the Dangerous and Severe Personality Disorder (DSPD). Once deemed as untreatable under mental health legislation, they have now been subjected to indeterminacy. A specialist unit at HMP Whitemoor houses such prisoners.

Open prisons should provide facilities in order to test the prisoner for life on release. They must offer access to activities outside the prison, such as education, employment and training. For sex offender lifers these activities are compromised due to their offences. The prisoner should be given an opportunity to exercise self-responsibility; however for those who have been imprisoned under an indeterminate term, the need for support and guidance from staff will be paramount. Open prisons need to forge good working relationships with local communities and where possible dispel public concerns regarding risk. The 1996 Internal Review of Open Prisons concluded that open prisons needed to be less defensive about their role and purpose. The open prison for MLS prisoners is the penultimate stage of sentence, and as such open prisons have a responsibility to cater for their specific needs and ultimately afford them opportunities within the community. Provision within the prison needs to compensate if access to the outside world is restricted.

The men in this study have and will continue to be subject to risk assessments undertaken by multi-disciplinary agencies, all with differing emphasis and procedures. The Parole Board are reliant upon the accuracy of reports in order to make ‘informed’ decisions. Risk management has ramifications for prisoners awaiting transfer to and in open conditions. If, as a society, we are not able to accept that men who have murdered are capable of change and have progressed through a system designed to elicit change in behaviour, either through rehabilitative methods, reform or risk management, the case for whole of life sentences may become an alternative recourse. However, this may not act as a deterrent⁷², or fit comfortably with humanitarian values, particularly for those who have faith in the interventions provided within custodial settings.

⁷² Some countries that have retained the death penalty for murder have not seen a decline in the rates of crime as a deterrent. See Hood R (2001) *Capital Punishment A Global Perspective*.

“I don’t think this country has got it right, the longer they keep you in the more institutionalised you get and the harder it is to get back into the community as a ‘proper’ person” (Daniel)

Chapter Three: The Impact of Imprisonment

3.1 Introduction

This chapter will review qualitative and quantitative research relating to the impact of imprisonment. The chapter will draw on a range of sociological sources in order to provide an analytic framework in which the current research is located. Identifying and reviewing appropriate research studies and literature has been problematic particularly with regard to male MLS prisoners in general and those in open conditions in particular (see also Ardley 2001). The majority of subjects in the studies reviewed had been imprisoned for crimes against the person and homicide (Sapsford 1978, Richards 1978) although none distinguish murder as a category in its own right. The lack of research on this subject can be taken to be indicative of the low priority researchers and funding bodies have placed upon men serving a MLS.

The review will feature British and USA research and will make reference to other international studies of significance. Care will therefore need to be taken when generalising from these studies. Matters relating to replication will need to be considered when comparing international prison studies with British prison research. The impact of imprisonment provides a foundation on which to examine the main aim of the thesis: How do men who have murdered experience life imprisonment and the concept of release and how does this impact on their identity? The chapter will theorise and investigate the impact of imprisonment. The impact of long-term imprisonment as derived from the research reviewed will be considered within this study in order to confirm, refute or re-examine such findings within the context of identity change.

The chapter begins by considering the definition of ‘long-term prisoner’ in order to provide the reader with an understanding of the diverse prison population covered in the literature reviewed. The discussion will continue with an examination of the process of adjustment to imprisonment and consider the literature and theories pertaining to adjustment. Following this I will examine the adaptation strategies employed by prisoners. The chapter will then consider the studies pertaining to the harmful emotional, social and physical effects of imprisonment and conversely studies that refute such deleterious effects.

Attention will be paid within this section to strategies employed by the prisoner to counteract the impact.

3.2 Defining the Long Term Prisoner

Ambiguity as to what constitutes long-term imprisonment has been a consistent difficulty during the review of literature and is a key problem when comparing academic research. By virtue of the indeterminacy of their sentence, MLS prisoners are and will be 'long term'. Lack of definition and clarity within studies is problematic when looking to extrapolate findings of impact due to sentence length. Sapsford (1983) found the lack of differentiation between determinate and indeterminate sentences a severe weakness of the studies conducted by Cohen and Taylor (1972) Banister et al (1973) Heskin et al (1973,1974) and Bolton et al (1976) all determining long-term imprisonment as an indeterminate life sentence or determinate sentence exceeding 10 years. One of the major criticisms levied is the portrayal of long term inmates as vague abstractions of 'lifers' referring to the work of Albrecht (1978) Crawford (1977) and Heather (1977). Cowles and Sabath (1996) cite 19 studies of long-term imprisonment out of which only four were dedicated to lifers and seven included lifers and, whilst homicide offences were included (Sapsford 1978), there is no demarcation of murderers as a stand alone group within the research. Cowles and Sabath (1996) reviewed the literature in order to outline challenges to the conventional view relating to the negative impact of long-term imprisonment. Studies have failed to differentiate categories of homicide and therefore have omitted to consider the nature of the impact of specific offence categories when considering the impact of imprisonment. As most murderers now commence with a minimum term of 15 years and the average length of time served is 16 years (NOMS 2008), the impact of long-term imprisonment is an area that warrants continued investigation, which can lead to amending policy and practice in accordance with the findings.

3.3 Adjustment to Imprisonment

Clemmer (1940) produced the first detailed analysis of the changes prisoners experience during confinement in the USA, conceptualising the existence of an 'inmate society' unified by an 'inmate code'. Commitment to the inmate code occurred through a process called 'prisonization' this being 'the taking on, in greater or lesser degree, of the folkways, mores, customs and general culture of the penitentiary' (Clemmer 1958: 299). The longer a prisoner served, according to Clemmer, the more removed he would become from

conventional society and the stronger the influence of prison society. For Clemmer, the influences that breed criminality such as attitudes and values upholding criminal ideology were the most important aspect of prisonization; therefore Clemmer saw prisonization as the opposite of rehabilitation. Wheeler (1961) and Walters (2003) both supported prisonization theory. Wheeler found evidence suggesting a reformulation of the effects of imprisonment on prisoners in the form of a shedding of the prison culture operating near release. However results are far from clear as to the existence, extent and nature of prisonization. Morris and Morris (1963) in their study of HMP Pentonville⁷³ were concerned with issues of individual adaptation to the environment of captivity. The Morris's followed Clemmer's example and attempted to survey the characteristics, sociological and criminal, of the Pentonville population. They noted few prisoners become totally prisonized. The factors according to the Morris's that determine the degree of prisonization are previous prison experiences, the sentence length and the nature of the prisoner's relationship with the outside world. The nature of relationships within the prison and the degree to which the prisoner accepts the codes of inmate culture also contribute toward prisonization (Morris and Morris 1963). The work of the Morris's may indicate the differences in culture and characteristics of a British prison as opposed to those within the USA.

Prisonization has been rejected according to Morgan and Liebling (2007:1129) by researchers on the grounds of being 'too mechanical and linear a process'. However, as a result of the concept of prisonization, three major models emerged to explain adjustment to imprisonment – the deprivation, importation and integrative models. Each model endeavoured to explain the origin of the prison social structure and the subsequent relationship between prisonization and a variety of factors which will be discussed within the ensuing sections of this chapter. Walters (2003) found support for both deprivation and integration models was evident, maintaining that the interaction between the deprivation and importation model holds: 'The greatest promise of advancing our understanding of the prisonization experience' (2003:401).

⁷³ HMP Pentonville a large London prison consisted at the time of adult prisoners all of whom were recidivists.

3.3 1 The Deprivation Model

The deprivation model of adjustment was concerned with the socio-structural functional features and patterns of interaction exhibited in prison life. The indigenous aspects of prison life were thought to produce problems of such severity only adaptive prisoner responses could rectify the damage. The seminal text of Sykes (1958) delineated the dilemmas faced by prisoners. He termed these the ‘pains of imprisonment.’ The ‘pains of imprisonment’ are commonly referred to as the deprivations of liberty, goods and services, security, autonomy, and heterosexual relationships. Morris and Morris (1963) agreed with Sykes (1958) that deprivation and frustrations exist within prison: ‘There effect varies enormously from one prisoner to another, so that it is difficult to estimate the minimum level below which the experience of imprisonment bears equally heavily’ (1963:161).

Sykes’ account of prison life illustrates sociological concerns such as power and inequality and the consequences of such on prisoners. His contribution to theories of imprisonment is the inherent deprivation caused by prison life, in particular the lack of access to the outside world, and the prison occupants being different to those in wider society. Today the prisoner has links to the outside world including the use of information technology, telephones, TV and family visits. The USA prison system studied by Sykes, differed radically to the UK system in terms of prisoner typologies, culture, ethnicity, policy and practice.

Prisoner social systems functioned according to Sykes to alleviate the deprivations of imprisonment and allow the prisoner to cope with his confinement. This line of inquiry has been followed by deprivation theorists in analysing adaptive behaviour including the defensive adoption of inmate codes (Tittle 1969, Thomas 1977). McEvoy (2001) following Matthews (1999) observes the inclination among analysts towards viewing certain behaviours as inevitable responses to the pains of imprisonment. In doing so it obscures the important institutional dynamics, such as the way in which power is administered in prisons and the ways in which internal flows of power interact with external political, economic, sociological and ideological forces (McEvoy 2001).

The deprivation model favoured by Sykes indicates that prison specific variables account for and explain both prisoner behaviour and culture. ‘Statesville’⁷⁴ the US study by Jacobs (1977) presented a challenge to Sykes’ account and theories of prison culture. Jacobs found no single normative inmate code. He discovered fragmented prisoner communities ethnically defined by gangs. Any codes of loyalty remained within the group. According to Jacobs (1977:399) ‘the gangs had emerged from the Chicago streets where values and leadership structures had been transported to prison’. Jacobs compared Goffman’s (1961) ‘role stripping’, where the prisoner is stripped of any personal identity when entering the institution, with what he observed as ‘homecoming ceremonies’. These ceremonies involved new members of the prison community being greeted and looked after by their street affiliates. The external identity the prisoner held outside the prison is defined and reinforced by the prison’s social structure. The pains of imprisonment were buffered through the collective identity and social and economic support offered by the gangs. There is no reference made in the Jacob’s research as to the impact of being excluded and brutalised as a result of gang affiliation in this context. Such gang affiliation was not identified in the work of Morris’s (1963) and is indicative of the difference in cultural and criminal lifestyles between countries.

3.3.2 The Importation Model

Irwin and Cressey (1962), also in the US, acknowledged the existence of an inmate society as a response to the problem of imprisonment as hypothesised by Sykes. However, they questioned whether the answer lay solely within the prison. The importation model emphasised pre-prison experiences and prisoner characteristics as determinants of adaptation and adjustment to imprisonment. Irwin and Cressey (1962) and Glaser (1964) claim that imported values, attitudes and ideals will influence the behaviour whilst in prison rather than a central value system operating from within the prison. Irwin and Cressey (1962) argued that prisoners imported into the prison certain characteristics and behaviour patterns from their external worlds and adapted these inside prison in order to maintain their existing identities, thereby confirming Jacobs’ (‘Statesville’) theory. This inmate code was not distinctive to prison but a version of the criminal culture the prisoner held within the community. Irwin and Cressey identified three distinctive subcultures imported into the prison the first being the ‘thief culture’. This was held by professional

⁷⁴ Statesville was a long-term study examining the prison structure from the 1940s.

and serious criminals who were seen to be reliable, loyal to the criminal and not prison life. These prisoners sought to do their time as easily and comfortably as possible. The second was the 'convict subculture' - such prisoners had spent time in juvenile detention and were socialised within cultures that were manipulative, exploitive and individualistic. Irwin (1970) renamed this as 'state raised youth'. These prisoners did their time by enhancing their status and influence within the prison. Illicit activities were used as a means to an end, a way to gain status with other prisoners. The third group identified were the 'straight prisoners' who were anti-criminal in attitude and generally sought to comply with institutional goals. The cohesive behaviour found in the USA studies differed in Scandinavia. Mathiesen's (1965) account of Norwegian treatment centres described prisoner communities with little cohesive behaviour. They had little faith in effectiveness of norms that would promote solidarity and a flat inmate hierarchy according to Crewe (2007). The interaction between staff and prisoner was not banned, or seen as 'them and us' as in the studies presented by Sykes (1958), Irwin and Cressey (1962) and Goffman (1961). Mathiesen (1965) found no honourable inmate identity existed in the institutions studied in Norway in the way it did in the USA.

The importance of considering personal characteristics has been stressed in the research of Flanagan (1982) Toch (1977) and Cohen and Taylor (1972). Irwin (1981) recognized that many prisoners have previous knowledge and experience of imprisonment. In contrast, those who have never been involved with the CJS, but committed a one-time murder, may be ill prepared for the experience of imprisonment and therefore may experience more problems in adapting. Irwin (1981) emphasises that different models of adaptation will be adopted by prisoners; seeing those models linked with their personal culture as most effective in minimising the potential detrimental effects of imprisonment.

The theories presented above need to be considered in greater detail. The differing theories and analyses are not universal but culturally specific. The early studies (Clemmer 1940, Sykes 1958, Irwin and Cressey 1962, Jacobs 1977) took place in the USA where a distinct gang phenomenon was (and is) dominant. This was not so for Western Europe. Researchers such as Mathiesen came to different conclusions, as Norway had an undeveloped criminal culture at the time in comparison to the USA. Morgan (2002) notes that most European societies did not have gang cultures or racial tensions whose importation into prisons have resulted in the problems experienced in the USA. Research

has also been based on high security prisons in the USA. Any purposeful comparison between USA and European prisons and prisoner culture is compounded by the lack of comparative studies available.

Researchers such as Thomas (1975) and Jacobs (1977) have favoured the importation model over the deprivation model. They lay claim to the external values and experiences of the prisoner as a contributory factor in adaptation to imprisonment. Caution should be taken with accepting a clear-cut view of adaptation patterns. For example, factors such as addiction to illegal and legal substances and deteriorated mental health could elicit responses that are out of keeping with how the person concerned would ordinarily adapt and respond to a stressful or unusual situation such as imprisonment and the subsequent portrayal of any identity. According to Sapsford (1983), social class and educational attainment will also affect how the prisoner deals with his sentence and in turn how he is perceived by staff and prisoners.

The importation model of adjustment to imprisonment challenged the deprivation model which, according to Matthews (1999), claimed the restrictive nature of imprisonment as the dominant factor in prisoner adjustment. It is generally accepted that deprivation models fail to provide explanations of change, including changes in operational, policy and prisoner responses which have taken place within post-war Britain according to Morgan and Liebling (2007). Importation theorists stress the connection between past life style, culture and changes in politics, authority and law (Morgan and Liebling 2007). Thomas (1977) argued the two models were not theoretically incompatible, since social and cultural backgrounds would provide frameworks through which prisoners perceive and experience imprisonment. The integrative model developed as researchers found factors relating to both the deprivation and the importation model as being relevant. The integrative model suggested a more consolidated explanation to prisoner adjustment than previously indicated. Viewing both models as complementary is more conducive.

There is no single pattern of adjustment to prison life according to Crewe (2007). Prisoners are not passive agents of prisonization or socialization in the way the aforementioned literature would suggest. Cohen and Taylor (1972) emphasized that prisoners were highly conscious of their social situation and were strategic in the choices they made to address their situation. It is important to recognize that trends, patterns and characteristics of any

imprisoned population are determined, historically, politically and culturally. Matthews (1999) claims most sociological authors agree that prisoners will pass through stages of adaptation to imprisonment these being, co-operation, withdrawal and resistance.

3.3.3 Co-operation as a mode of adaptation

Here the prisoner keeps out of trouble during his incarceration with the sole intention of reaching release as soon as possible. Sapsford (1983) following Goffman (1961) identified colonization – this being: ‘...the sampling of the outside world provided by the establishment as the whole, and a stable, relatively contented existence is built up out of the maximum satisfactions procurable within the institution’ (Goffman 1961:62). Colonization therefore relates to co-operation as both are required in order for the prisoner to make his life inside as comfortable as possible (Sapsford 1983). It could be argued that colonization is a process that prisoners undertake to lessen the pains of imprisonment and therefore not a negative concept. Irwin’s ‘professional criminals’ would do their ‘time’ in much the same way. The difference between Sapsford’s homicide group and Irwin’s professional group was the readiness to take on the criminal identity on release. Retaining a criminal identity on release is not an area that lifers considered, according to Coker (1983), given the precariousness of ‘life on licence’ and any prospect of continued freedom.

Goffman (1961) identifies conversion as a stage of adaptation to institutional life. Conversion according to Goffman is where ‘... the inmate appears to take over the official or staff view of him and tries to act out the role of the perfect inmate’ (Goffman 1961:63). Morris and Morris (1963) describe a similar process termed conformity. Sapsford (1983) further developed Goffman’s conversion concept claiming it to be rare, purporting that agreement rather than conversion was adopted as prisoners may already hold the same values as staff prior to imprisonment. Further to this, prisoners could use these values as a way of achieving the institution’s and their own purpose. Overt opposition to the system was viewed by Crewe’s (2007) sample as naïve and unproductive. According to Crewe (2007), manipulating rather than complying with the system was a form of adaptation adopted by high status prisoners⁷⁵. Self-improvement in Crewe’s sample was generally

⁷⁵ Prisoners whose offence patterns are well known and who have received media attention.

seen to be acceptable and prisoner values and those of the institution were not diametrically opposed as claimed by Sykes (1958).

Crewe (2007) identified a tiered typology of compliance. Fatalistic compliance comprised not resisting or manipulating the system. Compliance here was based on attachment to the outside world. Such compliance by lifers could be based on recognition of being incarcerated for many years and therefore making the environment as pleasant as possible. Long-term prisoners in this group were aware of how penal power was exercised on them. They realized that complaints would not hasten their progression. Those who did complain were careful not to be confrontational (Crewe 2007)⁷⁶. Detached compliance is a process whereby prisoners disengage from the institutional regime and seek to rebuild their lives autonomously. This adaptation is similar to social withdrawal. According to Crewe, the prisoners effectively sidestepped formal mechanisms of compliance. Strategic compliance occurs when the prisoner perceives himself to be 'active and resistant rather than resigned and compliant' (2007:272). Such prisoners, according to Crewe (2007:272) 'play the paper game without any normative engagement, providing a smoke screen for oppositional values and activities'.

Prison cultures can be periodised historically dependent on management styles or the dominant penal philosophy of the time (Jacobs 1977). According to Crewe (2007) prisons are now designed to encourage individualism. He sees prisoners who comply unhesitatingly with the system as assaulting their sense of self. Those who manipulate it callously undermine the legitimacy of those who do not. As Crewe discovered the honest are punished by the system. The skillful actor progresses through it.

3.3.4 Withdrawal as a mode of adaptation

The previous sections have discussed the modes of adaptation prisoners engage in. These modes have been dependant on interaction with the environment and with other prisoners. Not all prisoners choose such routes and can use withdrawal as an individual means of adapting to imprisonment. Withdrawal can take on many forms including physical separation from other prisoners and social withdrawal, depression, self-harm and even suicide (see section 3.3.9). Morris and Morris (1963) identified men who were socially

⁷⁶ Crewe offers no differentiation between sentence types for lifers.

withdrawn and happy to do ‘their time behind closed doors’. These ‘old lags’ according to the Morris’s had vast experience of imprisonment and were resistant to more open and interactive experiences. Sapsford (1983) found evidence of withdrawal in the early stages of the life sentence but uncommon after this point. Wheeler (1961) indicates that inmate attitudes undergo a kind of cyclical change from the pro-social through the anti-social to the pro-social once more. He found the U shape curve much more pronounced with those reporting least contact with other inmates. Morris and Morris (1963) found no evidence to support or refute a ‘U curve’ hypothesis from their data.

3.3.5 Rebellion and/ or resistance

In section 3.3.3, covert forms of resistance were identified in the form of fatalistic compliance (Crewe 2007); this section is going to examine overt forms of resistance. The extent and length of engagement in such processes will depend on how aggrieved the prisoner feels. It is generally taken that modern prisons are less punitive and dissociated from society with conditions far superior to those of the 1960s-1990. Crewe (2005) found that the conditions for collective prisoner resistance are unlikely to occur in the modern prison. He attributes this to a rapid turnover of prisoner, access to the outside world and a fragmentation of the inmate population through privilege, early release schemes and improvements in hygiene, food and interpersonal engagements. Crewe found the modern prisoner was uninterested in learning of or being associated with the criminal career of his peers, resulting in diminished collectivism; a situation that differed vastly to previous accounts (see Cohen and Taylor 1972, Parker 1994, and James 2003).

3.4 The Impact of Imprisonment

This section will commence with reviewing the British, USA and European literature on research primarily conducted during the 1970s on the perceived negative effects of imprisonment. Flanagan (1979, 1981, 1982, 1991, and 1992) is generally acknowledged as being influential in the field of long-term imprisonment. However, he does not differentiate between specific offences or sentences but his work does provide an informative account of the effects experienced by prisoners and will feature throughout this chapter. An over-riding concern as to the impact of imprisonment was and to some extent remains the possibility of institutionalisation particularly for MLS prisoners. Sapsford (1978) reviewed the literature on institutionalisation. He found institutionalisation was characterized by apathy and reduced motivation, extreme

dependency on routine and the support of the institution. Institutionalisation was generally attributed to the administrative effects of the institution, which fostered and rewarded the residents for compliance and good behaviour to the point where they became passive recipients. MacKenzie (1985) discovered anecdotal information pointing to institutionalisation and fear of institutionalisation from long-term prisoners. Likewise, Cohen and Taylor (1972) found an almost obsessive fear exhibited by long-term prisoners with regard to becoming institutionalised. Institutionalisation is also a term used by prisoners and staff in the literature to describe the process of losing interest in the outside world, viewing prison as home, an inability to make self decisions and defining the self within the institutional context. Sapsford (1978) found certain types of lifer likely to be or called institutionalised by authorities irrespective of length of time served. However, Sapsford does not specify who these lifers are.

Svensson (1997) offers an alternative concept to institutionalisation, the 'homeland' which is where prisoners find prison the only place they are recognised as a person and therefore are unable to cope with life outside; prison is seen as the homeland. Becoming content with being imprisoned was something that Cohen and Taylor's (1972) respondents found untenable; thus making it contrary to colonization (Goffman 1961 op cit). Toch's (1977) concept of 'niches', an environment in which the prisoner feels safe, experiences less stress and has more autonomy over social interactions, is comparable in part to both Goffman's colonization and Svensson's homeland. Rather than seeing these concepts as wholly negative as suggested by the above authors, I will through the narratives of some of the men in this study demonstrate within chapter six, seven and eight that prisoners serving a MLS may be adapting to the possibility of life-long detention and the murderous identity and are therefore utilising the identities most effective in any given situation (see chapter 4).

When considering institutionalisation and/or dependence upon the institution there is an indication that social interaction of some form takes place in order to facilitate or impede the process. Social interaction within the prison is a theme that has been investigated by Heskin et al (1973); Toch (1977) and Sapsford (1978), whose findings indicate prisoners became less interested with social activities and withdrew from being part of a large prison network as the sentence progressed. Zamble (1992) mirrored these results, the interpretation of the findings being that immersion in self-activity was preferable to

institutional socialising. Zamble and Porporino (1988) found long-term prisoners tended to use their non-structured time in their cells and were selective in the relationships they fostered with other prisoners. Such mechanisms may be adapted by MLS prisoners in order to progress throughout their sentence. Any contact with other prisoners seen by the institution as problematic will have a negative impact on the MLS prisoner as he tries to prove he is no longer a danger and safe for transfer to a lower security establishment and, ultimately, release. The adoption of this strategy can also be a means of retaining a pre-prison identity (see chapters 4, 6, 7). Social withdrawal from life on the outside, including cessation of visits from family or friends, is not necessarily a prerequisite to institutionalisation or colonization. It may however impact on the intellectual and emotional stability of the prisoner.

3.4.1 Intellectual and Emotional Deterioration

Taylor (1961) claimed the long-term prisoner becomes insular and lacks affect⁷⁷ in respect of their situation and environment. Such a declaration can be both pessimistic and deterministic, offering little in terms of understanding the impact of imprisonment due to the nature of the offence and the sentence received. Flanagan (1979, 1980, 1981 and 1982) acknowledged that views of long-term imprisonment had led to the belief that prison caused systematic destruction, which he argued was too simplistic. Flanagan recognized that prisoners had an ability to call upon adaptive strategies, which would diminish any deleterious effects of imprisonment. He claims that adaptation to the environment is related to prisoner characteristics, the institution in question, staff and other factors. Unfortunately Flanagan does not develop the 'other factors', thereby leaving a void when considering any critical analysis. The work of Heskin et al (1974) indicates that prisoners' perceptions of their worth decreased with imprisonment and link this with intellectual and emotional deterioration. However, this is not supported by other researchers and therefore exemplifies the difficulty in generalising the impact of imprisonment on individuals as well as distinct groups of prisoners. Being in prison, according to the respondents of Flanagan (1980) and Richards (1978), had strengthened their resolve and made them emotionally physically and intellectually stronger as a result. Statements such as increased resolve, personal strength and self-reliance are often referred to as 'real-man' statements. Richards (1975:57) suggest that: 'Such patterns can be indicative of a desired effect one

⁷⁷ A psychological term referring to unexpected or inappropriate responses or emotions to stressful situations and experiences.

which underplays the problems and exaggerates the ability to adapt often out of a need to convince the researcher and themselves that they were ‘real men’.

The ascription of a traditional masculine identity is evident here in the form of presenting as strong and not showing a vulnerable side when coping with a hostile environment. The perception of not losing face in front of others holds relevance and is indicative of the ability to operate within a number of identities (see chapters 4 and 9). Sapsford (1978) found intellectual and emotional deterioration increased as a result of knowing the sentence was ‘on-going’. Sapsford refers to increased anxiety after the passing of the expected release date, although this is not explored in detail. As Sapsford is referring to an expected release date, the likelihood is the prisoner is a long-term determinate prisoner. He does provide evidence for specific changes that might lead to deterioration associated with length of imprisonment – increased introversion and dependency on routine and staff all being indicative of the process of institutionalisation. Furthermore, Parker in his 1973 anthology of prison writings found that for some men reversibility of effects on release was problematic irrespective of the process of maturation. However, this finding was unsubstantiated by Coker (1983) see section 3.4.

Banister et al (1973) considered how over time inner-directed hostility such as self-loathing increased, while researchers such as Sluga (1977) claimed the earlier years of imprisonment elucidated regressive behaviour and growing insecurities. By considering long-term prisoners as a collective group, both researchers are failing to consider the aspects of life imprisonment for murder and how this manifests itself during the sentence. However, Banister did link this increased self-loathing with the initial crime and the amount of time prisoners spent addressing their crime and the associated feelings of remorse. It should be noted that Banister’s research pre-dates any compulsory offending behaviour courses; therefore, discussing one’s own crime was a voluntary as opposed to enforced situation. This can be indicative of recognition of the distress experienced not only to themselves but to others due to the nature of the offence rather than a way of glorifying themselves or the offence. It is also indicative of the acquisition of a number of identities (see chapter 4). A methodological weakness of Banister et al’s study is they do not account for the time inmates anticipate they must serve before their release, or the inmate’s post release expectations and concerns (Porporino and Zamble 1984), all of which impact on how they view themselves and ultimately the identities they develop.

Deterioration in emotional well-being can be associated with physical symptoms. However, Rasch (1977; 1981⁷⁸) found that health did not deteriorate as time imprisoned increased. He noted that lack of sleep and poor appetite, signs associated with depression, diminished with time served. Conversely Heather (1977) found physical illness was high among long-term prisoners. The reasons for the differences in findings could be attributed to the methodologies employed by the researchers, the location and management of the prisons, the differentiation of physical as opposed to mental health issues and age. Contradictions in the research findings are evident and care must be taken when drawing conclusions from the research cited. The evidence is suggesting that the most negative impacts occur earlier on in the sentence and then subside as time served progresses. The reasons for this are not made clear or expanded upon. The prisoner may have accepted his situation and therefore developed effective coping mechanisms in order to alleviate symptoms associated with decreased mental well being; such mechanisms may involve adopting identities (see chapter 4).

3.4.2 Growing Old in Custody

Studies have shown deterioration of aged prisoners serving long terms of imprisonment with regard to greater anxiety, despondency, apprehension and concern with physical functioning as compared with normative groups of short-term prisoners (Panton 1977; Gillespie and Galliher 1972, Krajick 1979, Rodstein 1975). Crawley and Sparks (2005) found ageing prisoners, defined as those over 65 years, suffered more illness and a declining mental health like their counterparts in the community in comparison to younger prisoners. The men in their research entered prison later in life and many knew they would end their life in prison; coping with thoughts of dying is therefore very real, unlike the research group of Cohen and Taylor (1972) who only discussed what it would be like to grow old and die in prison. The MLS prisoner may enter custody at a later stage in life or, due to the nature of the original offence and peculiarity of the sentence, remain in custody during advanced years. The particular impact of imprisonment on an ageing population is therefore relevant to this thesis.

Sapsford (1978) found five main differences brought about due to imprisonment over and above the effect of ageing –a reduction in future time perspectives, talking and thinking of

⁷⁸ In his study of three groups of West German Lifers.

the past not future, seeing real life as ending once imprisoned, an increased introversion as the sentence progressed and being less interested in social activities (Heskin et al 1973). The fifth change is involvement with the outside world (see section 3.4.6). The differences identified by Sapsford correlate with the principal deprivations experienced by long-term prisoners as defined by Flanagan; these being time management, maintenance of family and outside ties, and the preservation of self-identity and self-esteem. Flanagan (1981) acknowledged these deprivations as similar to the pains of imprisonment but exacerbated by the time factor for long-term prisoners. These three ‘additional pains’ as described by Flanagan provide a consistent theme. Time spent in custody has to fulfil the requirements for deterrence and retribution (see chapters 1 and 2.) how the men use time and how time is linked to the precarious concept of indeterminacy will now be examined using existing research.

3.4.3 The Concept of Time

A recurring theme found among lifers is that of talking about the past rather than the present. Sapsford (1983) found that few men spoke about what they would do after release and those who did could only see a little way into the future. The notion of ‘barrier effects’ had been implemented where a major landmark in the future, such as the prospect of release, narrows the future time perspective. This has been noted in a number of contexts according to Sapsford. Flanagan (1980) also makes reference to this phenomenon in respect of men doing ‘hard time’, this being a situation where if the prisoner allows his thoughts to wander into the future he is left with the realization that the future is beyond his control. Men serving a MLS have to live with the realization that their current situation will be their future situation if release is denied by the Parole Board. Cohen and Taylor (1972) refer to this concept as ‘denial of the future’ and see it as a method of coping in order to reduce such ambiguity pertaining to release.

Zamble (1992) found prisoners unable to differentiate between thoughts of a ‘future outside’ and a ‘future before end of sentence’ claiming the precariousness of the release process blurred the distinction. Unlike other studies where prisoners focused on the present, Zamble (1992) found evidence of prisoners rehearsing for release via daydreaming. Zamble (1992:422) found prisoners made long term goals and plans for life on release: ‘In effect they sometimes seemed to be living within a world of their own, inside the prison, but separate and apart from its ordinary discourse.’ Not surprisingly

interest in the future declined for many of Crawley and Sparks (2005) ageing prisoner sample particularly as their own families were often deceased and they increasingly viewed the prison as a home.

Life sentence prisoners are denied a self-determining future. They have to learn to structure knowledge and experience around unquantifiable amounts of time in the future (Walker and Worrall 2000). Jewkes (2002) likens the experience of long-term prisoners, who are being held in stasis while the world moves on around them, to those experiencing progressive diseases, both of which can impact on physical and mental well being. She claims this is why prisoners place high value on occupying the mind and exercising the body. Similar findings are reported by Cohen and Taylor (1972) Sapsford (1978) and Crewe (2007).

Jewkes (2002) found many references to prisoners still feeling the age they were when they were first imprisoned, even if that was 20 years ago (see also Sapsford 1983, Parker 1990 and Chapter 6 and 7). This phenomenon will become more pronounced when released, according to Jewkes (2002), as the prisoner attempts to make up for time lost in prison. If Jewkes is correct, life on licence will be a precarious process when risk assessment and management are at the fore (see chapter 2). Zamble and Porporino (1988) originally described this experience as being ‘frozen developmentally’, attributing the phenomenon to being unable to learn through the accumulated social experiences that are taken for granted by those on the outside. It should follow that the regaining of social experiences within an open prison will in part prepare men for entry into the social world. Albrecht (1978), in highlighting the devastation caused by indeterminate sentences, called for maximum imprisonment not to exceed 15 years as social reintegration lost meaning after this point. If, as Albrecht claimed, social reintegration became diminished after this time, men transferring to open conditions beyond this point will be facing their most severe challenge.

3.4.4. Using Time: Creating Meaningful Activities

Cowles and Sabath (1995) found an emphasis on the necessity and desire of long-term prisoners to undertake meaningful as opposed to irrelevant activities. The concept of a prison career can be further examined here. In this respect the ‘career’ is taken to have its literal meaning. Work is linked to meaningful activity as a way to gain support and status

(Cowles et al 1989). Zamble (1992) reinforced the finding that work constituted the largest proportion of reported activities and increased over time spent in prison. On a pessimistic note, the work skills gained by long-term prisoners entering the system at an early age were recognised as being the only work skills they would gain to live legitimately outside.

Toch (1977) and Flanagan (1979) found education training and work were sacred prizes for long-term prisoners who wished to avoid the conflict of everyday life in prison. Other researchers (Cohen and Taylor 1972, Sapsford 1978) found men believed it important to keep their mind active and did so by attending classes. This declined over time particularly among men who had served beyond their tariff (Sapsford 1978). The decline could have been linked to the hopelessness of improving oneself yet still not gaining release; however this may differ according to age. Crawley and Sparks (2005) found that elderly prisoners had a propensity to want to continue with the work ethic indicative of the era in which they participated and were culturally conditioned. Similar to Flanagan's findings the elderly prison population drew on education hobbies and social interaction. Parker (1990:210) found that men frequently claimed: 'you don't waste time in prison you spend it'. The undertaking of self-improvement activities, such as education or work, is an act of personal reconstruction of the self and helps the prisoner relocate himself as a 'purposeful being' within the confines of imprisonment.

Time is held in stasis for MLS prisoners. They enter prison with the knowledge that any future release is beyond their immediate control. Time becomes a phenomenon to which they have to adapt and view in new ways. Days, months, years roll in to one (see chapter 6, 7 and 8). For MLS and indeterminate prisoners 'all their tomorrows will be like today' (Parker 1973). The impact of time and the removal of the prisoner from controlling his own life will impact on his relationship with himself and others. As the outside world moves forward, he cannot actively participate or move with it. Sykes (1958) focused on prisoner's exclusion from participation in life events, yet he did not include time as a pain of imprisonment. From a Foucauldian perspective prison regulates time and space. However Foucault did not recognise how time is experienced by those serving an indeterminate sentence, the unique loss of time, and personal life history experienced by the prisoner or the reduced future experienced after release. (See Worrall 2000 for

discussion on women lifers). The impact of the loss of time is interconnected to maintaining links with the outside world.

3.4.5 Maintaining Outside Links

Richards (1978) found that men who had served over eight years were more preoccupied with relationships on the outside than those who served less than 18 months. He saw this as an encouraging indication of a capacity to resist the erosion of outside contacts normally associated with various kinds of institutionalization (see Farber 1944). The orientation of these men toward their relationship with the outside is a central element in the management of the mental health of long-term prisoners and could be used to explain the decline in continued depression anxiety and physical illness as the sentence progressed (see section 3.4). Loss of interest in the outside world was not evidenced by the research undertaken by Cohen and Taylor (1972) or Sapsford (1978). Again, care must be taken when considering the characteristics of their samples. Neither differentiate the MLS prisoner so any particular advantages or disadvantages caused by maintaining outside links for MLS prisoners remains unknown.

Richards (1978) and Flanagan (1980) found the most serious problem associated with imprisonment was the loss of relationships with family and friends. Flanagan found most long term prisoners realised their outside relationships would diminish whilst accepting life for those outside continued without them. All prisoners are subject to this, regardless of sentence length; the increased amount of time served by indeterminate sentence prisoners exacerbates this deprivation. Many relinquish relationships as a means to reduce the pain of separation and as a means of removing the stigma of the offence from significant others (Farber 1944). Prisoners who do not relinquish relationships inevitably find themselves in a Catch-22 situation; the continued encouragement and support from the family makes it more difficult to be away from them. The pain of separation is also profound for their family. The MLS prisoner is subjected to a lonely and isolating experience, either through choice or imposed by his family as a result of the crime he committed (Sapsford 1978, Flanagan 1980 and chapters 6 -7).

Prisoners, according to Richards (1978) and Flanagan (1980), recognise that unless one had experienced imprisonment, empathy with their situation was not possible. Relatives were not seen by long-term prisoners as a source to use when problems arose. The

knowledge that their loved ones had enough problems of their own, often as a direct result of the prisoner, was acknowledged. The crimes MLS prisoners are being punished for hail from the past not the present, as the impact of long-term imprisonment and indeterminacy takes hold. It is the family who are left to deal with the impact of both the past and the present in the community.

3.4.6 Internal Relationships

Schrag (1944, 1961a, 1961b) claimed prisoners formed distinct attachments with other prisoners. It is generally accepted that whilst some prisoners do form attachments there is also evidence to suggest the contrary. The Morris's (1963:168) note a common error of prison observers is the 'sticking together' of prisoners. Inside the prison community there is hate as well as comradeship '... the worst memories of my stay was to be forced upon people's company I hated' (1963:168).

Flanagan (1980) noted the prevalence of the maxim 'do your own time' whereby prisoners adopted a strategy of keeping their private concerns private. The reason this is adopted is attributed to a lack of trust of fellow prisoners and disinterest from family and friends. Richards (1978) and Flanagan (1980) found prisoners perceived staff as being unhelpful when problems arose. This could be due to cultural differences and the time period in which they conducted their research, when prisoner collectivism, as opposed to individualism, was prevalent as identified in the early studies presented within this chapter. Svensson (1997) states the individualising of prison life has led to prisoners becoming self-centred and unwilling to see other people's problems. This identity is far removed from that of the collective identity purported by Cohen and Taylor (1972). Likewise, Flanagan (1979) when identifying his 'Long Term Prisoner Perspective' claimed men shared camaraderie and passed information to each other in situations where like-minded people shared mutual goals and interests. The model expounded by Flanagan is based on two defining characteristics, the older the age at admission to custody and the longer sentence. Flanagan (1979) saw age as an important variable as older men sought out older men to associate with. He also found pre-existing cliques of long termers involving older men. Flanagan's model stresses the importance of communication, in particular with regard to attitude and behaviour. Flanagan (1979:213) was not purporting an 'antiquated notion of 'old timer', rather groups based on mutual goals and interests'. A theory supported by Crewe (2005) who found lifers discouraged any conflict that could jeopardize their release

plans, as the long-term prisoner/lifer is seen as a collective group any particular variable relating to MLS prisoners may or may not be corroborated.

Friendships for long-term prisoners have to be redefined within the context of the continued uncertainty of indeterminacy. The knowledge that a friend may move on to another prison at any time or attain release inevitably compounds the difficulty of placing any meaning or expectation of continuing a lasting relationship. Prisoners report being reluctant to go to other prisoners with problems, advocating the view 'you have no friends in prison only associates' (see Cohen and Taylor 1972, Sapsford 1983 and chapters 6-7). However, the adaptive strategies discussed within this chapter have not considered the possibility that, for many MLS and other prisoners, continued imprisonment is not a viable option.

3.5 Suicide: The Ultimate Act

Flanagan (1980) and Richards (1975, 1978) found men reported contemplating suicide at some point during their sentence. Richards' sample identified these thoughts early in the sentence. Liebling (1992, 1999) reviews the topic of suicide in prison suggesting that some prisoners are susceptible to suicide. She also noted a high rate of suicide among lifers in comparison with the rest of the prison population at 176 per 100,000 prisoners (Liebling 2007:432). The suicide of lifers, according to Liebling, is more likely to be planned than impulsive, the prisoner is more likely to be older and the cause attributed to the offence such as the murder of a significant other, or a decision not to face life imprisonment. Liebling also acknowledges the changes in sentencing policy, such as recall and parole (see chapter 1) may contribute to suicide and suicidal tendencies, as does the use of close supervision for dangerous offenders (see chapter 2). She does not differentiate in her research between MLS or DLS prisoners. Therefore any specific differences between the groups remain unknown as a collective label is used. Liebling (1992, 1999) has shown that some prisoners do not cope with imprisonment, and fail to see why they should. Suicide may for some long-term prisoners be the ultimate way of 'coping' with a life sentence. The act of suicide alerts us to consider understanding the extreme difficulty some prisoners have when trying to adapt and cope with the prison regime, with the knowledge of the offence and with the prospect of living with an indeterminate sentence. Suicide alerts us to the fact that humans do not experience traumatic events in the same way and that coping with imprisonment is a personal struggle. According to Liebling (1999) the adaptation

literature fails to address the full impact of these personal struggles. Many prisoners have to keep their anguish and distress under control according to Gallo and Ruggiero (1991). MLS prisoners have to keep their anguish and distress concealed, as they have to successfully prove they will never murder again before release is considered. Experiencing traumatic events is as personal as the response elicited. Each individual will cope, adapt and respond differently. Assuming that life imprisonment will be detrimental and deleterious to all prisoners could be considered naïve.

3.6 Maintaining a Balance

In 1980 Bukstel and Kilmann conducted a thorough review of studies on psychological effects of imprisonment. They concluded that prison was not harmful to all inmates. Some deteriorated, some remained the same and some had improved cognitive functioning. Studies from Canada focusing on effects of imprisonment and long-term incarceration (Porporino and Zamble 1984, Wormith 1984, Zamble 1992) strengthen the position that adjustment varies across individuals. All support the notion that individuals can develop successful coping mechanisms. The evidence from empirical studies has suggested that intellectual impairment is not a conclusive outcome of long-term imprisonment (Banister et al 1973, 1974, Richards 1975, 1978 and Flanagan, 1981, 1991). Crawford's (1977) data supported Banister's findings, as did Rasch (1977:216) when testing intellectual capacity noting the: 'Results yielded no convincing proof of a definite intellectual deterioration during the course of long-term imprisonment.'

The results found by Richards (1975, 1978) also confirm the perceived minimal intellectual impact of imprisonment: 'neither the problem rating nor the interview data suggests that prison is experienced by most of these men as a fundamental threat to their mental health' (1978:167). Both Richards and Flanagan found men did not report any emotional deterioration as a result of imprisonment. However, Richards (1978) acknowledged to do so would be contradictory to the maintenance of a 'real-man' image as defined within section 3.4.1 or a masculine identity. Richards suggest this real man pattern of response indicates a social desirability effect:

that men were underplaying their problems and exaggerating the facility of their adaptations out of a need to convince the researcher and or themselves that they were "real men" who had prison more or less sewn up (1975:57)

Richards conducted his research in a top security prison with lifers or determinate prisoners with a sentence of over 10 years. At the time of Richards' research, attitudes toward masculinity were culturally bound; men had to be seen to be strong to a much greater extent than now. Any emotional loss of guard on the part of the prisoner would be interpreted as a weakness within the prison setting. The cultural ethos of a high security prison, prison officers and masculinity in the 1970s could account for the 'real man' persona. However, the responses may have differed with a female researcher.

Cohen and Taylor (1972) and Mackenzie and Goodstein (1985) found no evidence to support psychological deterioration over time, concluding that long-term prisoners appear to develop strategies for coping with prison. There is consistency with such findings (Banister et al 1973, Heskin et al 1974, Sapsford 1978, Flanagan 1980) in suggesting an improvement over time from the psychological distress experienced in the early part of the sentence. These findings complement Heather (1977:384), who found: 'Men at the beginning of their sentences show more personal illness more often than men who have spent longer in prison' - alongside mental health being inversely correlated with time served, thus concluding this could be due to the adoption of adaptive strategies helping prisoners mediate the pains of imprisonment.

Zamble and Porporino (1988) claim that systematic destruction of mental and emotional well being as a result of imprisonment is avoided primarily due to maturation (the progression to maturity through ageing), yet fail to say why this held such status. Caution should be exercised when taking such findings as conclusive. Preferences, attitudes and opinions of prisoners will alter during the passage of time in the same way as for the free person and therefore can be unrelated to either deleterious or non-deleterious effects of imprisonment. Similarly, the acceptance, assimilation and rejection of identities are also important factors related to the impact of imprisonment (see chapters 4, 6, 7 and 8).

Flanagan's model of long-term imprisonment (1979) considers the prisoner as an active participant engaging with the environment rather than being moulded by it. Coping is linked to opportunities available in the prison to meet individual needs and is compatible with Toch's theory of 'niches' (see section 3.4). Zamble (1992:422) found over time long term prisoners became more adaptive within the prison environment. 'They began to monitor, analyse and control their own behaviour better.' Zamble found systematic

decreases in emotional depressive states and guilt feelings fell as time went on contradictory to Banister et al (see section 3.4.1): 'Over time a higher proportion of the sample was able to cite some positive aspects of their lives in prison' (Zamble 1992:417). This was often associated with transfers to lower security establishment which allowed greater opportunity to associate with people from the outside. However, only three of the men included were serving sentences such as life without parole - 25years.

The research cited has not differentiated the prisoners into sentence types or considered the importance of identity in terms of managing the impact and the extent to which imprisonment has or has not been destructive. The studies reviewed do not offer any conclusive evidence as to the destruction of the person as a result of long-term imprisonment. However this is contradicted when considering the high suicide rates amongst lifers (Liebling 2007). Few studies are available looking at released prisoners. Coker (1983) followed up 239 released lifers and found a fierce desire to maintain their independence and manage life competently on their own, indicating that any deterioration that may have occurred as a result of long-term imprisonment was not displayed on release, suggesting a possible reversibility of negative effects. However as Zamble and Porporino (ibid) rightly conclude 'this shouldn't be seen as justification for use of long-term imprisonment.'

3.7 Conclusion

This chapter has demonstrated that extensive, albeit predominately dated, research has been undertaken examining the impact of imprisonment. The effects of imprisonment and the strategies to minimise impact have been considered. A major omission in sociological studies has been the lack of attention paid to time in terms of sentence length as an additional pain of imprisonment; particularly for those serving an indeterminate sentence where it could be argued that time is suspended.

Literature from the UK has emphasised the complex and diverse quality of prison communities, documenting how regimes differ according to prisoner groupings (see King and Morgan 1976, Sparks et al 1996). Prisoner responses to imprisonment are not only a reaction to their previous institutional experiences and prior criminality, but also the length of sentence imposed (see chapters 5, 6, 7). Most long-term prisoner studies have failed to differentiate between determinate long-term and indeterminate sentences as distinct

groups. The nature of the offences attracting long-term imprisonment, and how these prisoners are perceived by themselves, fellow prisoners and professionals, may impact on their response to imprisonment. The lack of distinction should make us cautious about accepting the results from such studies. The existing research has provided evidence that supports the destructive impact of long-term imprisonment whilst acknowledging that some men are able to cope and adapt by using strategies to counteract such effects. The research has alerted us to the potential impact of long-term imprisonment but has failed to provide evidence regarding the 'affective' experience of the imprisoned. The personal struggle of coping with a MLS has not been addressed within the literature. Any specific impact of the MLS and the identity of such prisoners is fertile research terrain.

The review of existing research has suggested some prisoners chose to isolate themselves from others and for some, despite individualisation, selective relationships are developed and fostered by some prisoners as a means of coping with imprisonment. Such relationships can include fellow prisoners and/or the retention of family contacts. However, this research was undertaken in closed prisons. There is room to revisit areas such as loss of family and friends when men reach open conditions, particularly as they are encouraged to rekindle community networks and adjust to this situation. A compounding factor occurs when the murder was of a family member or significant other.

The MLS prisoner faces two major challenges during their prison career, firstly experiencing life imprisonment post sentence, and secondly, and perhaps the most testing and challenging, open conditions. In this thesis, I will draw on my interview data to argue that it is here that a MLS prisoner will need to draw on inner strength and adapt to an environment where the full impact of his life imprisonment will become evident as he prepares for his forthcoming release. The process of any recovery, as referred to by Wheeler (1961), should become evident once the prisoner reaches open conditions; if the process of prisonization works against rehabilitation, then it should be most evident as men grow close to release. There has been no conclusive evidence within the reviewed literature to support Wheeler's theory. This thesis will re-examine Wheeler's position which suggests a reformulation of the effects of imprisonment on prisoners in the form of a shedding of the prison culture operating near release. The concept of liminality the 'between and betwixt' state is open to investigation when considering MLS prisoners in

open conditions, as I will argue in chapters six, seven and eight they are neither free persons or fully incarcerated.

“Everyone’s got a theory about who they think you are...I started to shift from one mask to another, in the end, I didn’t know who I was” (Ben).

Chapter Four: Considering Theories: Identity and Imprisonment

4.1 Introduction

This chapter has two specific purposes; firstly to consider theoretical frameworks on identity as proposed by key theorists and secondly to relate these frameworks to research on prisoners. The first part of the chapter will review the work of the dominant authors in the field, commencing with symbolic interactionist perspectives. Goffman (1959, 1961 and 1963) has provided great insight into how individuals interact in society and how they manage and present identities, self imposed or ascribed by others, using concepts such as spoiled identity, stigma and impression management. An alternative way of considering spoiled identity, multiple identities, will be examined within this chapter. This chapter will consider how power and identity are connected and draws on the work of Foucault (1977, 1981). Whilst Goffman placed importance on the individual, Foucault’s discursive mode of analysis provides insight into the relationship between power and knowledge within society. Foucault’s emphasis on social structure and power is analysed through discourse, yet fails to acknowledge the speaker as an individual. Foucault does not acknowledge the importance of ‘personal’ time; time being a critical feature of life imprisonment and indeterminacy. He recognizes difference, yet magnifies ‘sameness’. In order to consider sameness and difference, the chapter turns to intersectionality theory. The final part of the chapter introduces the reader to the conceptual framework for my study.

4.2 Social and Personal Identities, Accounts and Vocabularies

Hogg and Abrams (1988:2) see identity as ‘people’s concepts of who they are, of what sort of people they are, and how they relate to others’. Wendt (1992: 397) defines identity as ‘relatively stable, role specific understandings and expectations about the self’. Identity is something that distinguishes who we are and how we adapt and interact in various social settings. Fearon (1999:2) states that identity is presented in two linked senses, the social and personal. Social identity refers to a social category - a set of persons marked by a label, distinguished by rules, characteristic features or attributes.

Social identities are linked to particular exigencies of external roles and situational demands; as those demands change, so do the corresponding identities. Widdicombe and Wooffitt (1995) argue there is a sense in which the ascription of a social identity is a form

of social control. Once a category affiliation has been assumed, it is taken that the person's lives, actions and beliefs are understood solely by virtue of what is known or expected of the category without consulting the person. In turn this may produce a sense of social injustice. Social identity also differentiates us from others depending on what identity is imposed on or taken up by the individual. Hudson (2005:56), drawing on Breakwell (2001) considers an extended social identity, here people are not living in a vacuum but face daily reminders of society's indignation against the imposed identity. In the case of sex offenders, they are unable to separate their criminal act from their sense of self; their social identity is shaped by the stigma of being a convicted sex offender, this is according to Hudson the extension of who they are.

Personal identity, or self, according to Fearon (1999) has distinguishing characteristics that people take pride in and are more or less unchangeable. Fearon's definition of personal identity is rigid, paying little attention to the fact that all individuals possess a multiplicity of identities. The contribution of Goffman (1959) emphasized ways in which individuals adopt multiple roles, linked to multiple performances. Each multiple performance is used in order to negotiate meaning, status and position in everyday life. The dramaturgical model employed by Goffman sees social life as though it is played out by actors on a stage. How we act depends on the role(s) we are playing at any particular time. The source of information we convey to others is through the use of 'sign vehicles'⁷⁹. Observers use this information in order to apply and test stereotypes based on previous experience with similar individuals (Goffman 1959). As we are sensitive to how others see us, we use forms of impression management to ensure that others react in a way we wish. This can be done in a calculated way or without any conscious attention. The dramaturgical model involves the use of performances. When talking of performances Goffman (1959:32) refers to 'the front', whereby: 'the activities of an individual which occur during a period marked by his continuous presence before a set of particular observers'.

The performance and roles one undertakes can be considered through the encounters with others and through the language used. People generate identities for one another in social encounters or situations regarding a 'switching of identity'. Stryker and Serpe's (1992:207) notion of 'identity salience' refers to the likelihood that a person will enact a

⁷⁹ Sign vehicles may be mobile such as facial expressions or fixed such as race.

particular identity when given the opportunity to do so. Similarly, Stryker's (1980) analytical perspective links the theory of symbolic interactionism to identity performance in the context of maintaining social order. Stryker considers identities being defined by meaning and expectation in accordance with network position and role expectations. A further way of considering identity performance and encounters with others is through Scott and Lyman (1968).

According to Scott and Lyman, 'to assume an identity is to don the mantle appropriate to the account to be offered' (1968:58). Once an identity has been established the individual has committed himself to sustaining that identity for the duration of the encounter. The outcome of the encounter will be dependent on negotiated pre-existing identities. Scott and Lyman (1968) consider every account is a manifestation of the underlying negotiation of identities. The role one undertakes in an encounter mobilises an identity in response to a specific situation; identities are 'trans-situational' (Scott and Lyman 1968).

Scott and Lyman's (1968) analysis of 'Accounts' explains untoward behaviour; such statements bridge the gap between actions and expectations. Accounts have been widely used when looking at violent offences and transgressions of the law (Hearn 1998, Ballantyne 2004). According to Scott and Lyman, accounts may be classified as excuses and justifications, both of which are considered socially approved vocabularies. These act as a neutraliser to an act when it or its consequences are called to question. In many ways 'accounts' can be likened to the Weberian notion of 'motive' this being: 'A complex of subjective meaning which seems to the actor himself or to the observer as an adequate ground for the conduct in question' (Parsons and Henderson 1947: 98-99). Excuses are initiated for mitigating or relieving responsibility when conduct is in question. Justifications assert the positive value of a claim to the contrary. Justifications recognise that the act in question is impermissible, but claim the occasion warranted the act (e.g. self defence). Scott and Lyman's (1968) analysis of accounts is derived from Sykes and Matza's (1957) 'Techniques of Neutralization' which suggests ways of talking neutralise unacceptable behaviours. The argument is based on the premise that when offenders commit an offence, guilt and shame can be experienced. In order to minimise these emotions and the psychological discomfort engendered, neutralising talk is instated; Festinger (1959) called this 'cognitive dissonance'. Techniques of neutralisation include denial of injury, denial of the victim as well as blaming others (Sykes and Matza 1957).

Blaming others or justifying unacceptable behaviour enables the individual to propel the blame on others and hence clear themselves and, in doing so, convey an unspoiled self (see section 4.6). Goffman (1959, 1963) and Sykes and Matza (1957) argue that individuals provide positive accounts of undesirable behaviour in order to make their transgressions acceptable to others and to themselves. There are investments for individuals to do this in terms of reintegration into society. By doing so they are minimising or avoiding damaging the perception of the 'self'.

4.3 Identity, power, reflexivity and social constructionism

Callero (2003) suggested that symbolic interactionism, whilst steeped in empirical research on social roles, failed to consider cultural constructions or historical contexts. Identity does not act in a vacuum, but is negotiated and presented in a context of meaning (Breakwell 1993). Callero (2003:117) discusses an emerging sociological understanding of the self that draws from both interactionist and postmodern themes. The developing perspective concentrates on three organising concepts: reflexivity, power, and social constructionism. The rationale for the three concepts is clarified as Callero explains power is significant in the shaping of the self, offering an alternative view to traditional symbolic interactionist approaches associated with Mead (1934) and Goffman (1959,1961,1963). Reflexivity is according to Callero (2003:117), the 'core of the Meadian tradition.' Symbolic interactionists see the self as being a reflexive process of social interaction. The reflexive process allows us to become 'an object to one's self, to be both subject and object' (Callero 2003:119). Reflexivity derives from social experiences. Mead (1934:134) sees reflexivity as 'the turning back of the experience of the individual upon himself - the whole social process is thus brought into the experience of the individuals involved in it'.

The self, according to Foucault, is a direct consequence of power. Regimes of power bring the self into existence through technologies of surveillance, measurement, assessment, and classification (see chapter 2). The vehicles of power are officers in institutional settings. The Foucauldian perspective on the self sees a coerced being - not agentic, but a mechanism of control 'where discourses work from the inside out by creating a self regulating subject' (Callero 2003:118). Foucauldian discourse analysis is often undertaken by those interested in identity, subjectivity, personal and social change and power relations. Foucault argued the way people talk about and think about things such as sexuality and mental health will have implications for how we treat people. Such

representations were referred to by Foucault as discourses and he saw them as constituted and operating through language and other symbolic systems (Burr 2003). Hearn (1998) found men imprisoned for murder spoke from the perspective of violent men convicted of murder; men undertaking programmes to address aggressive behaviour spoke from the viewpoint of aggressive men because the dominant discourses within organisations (such as the prisons) defined them thus. 'However, Best (1994:46) declared that:

Foucault reduced consciousness and identity formation to coercive socialization and failed to grasp the individualising possibilities created by modernity...this radical antihumanism posed the obvious problem seeking social change without free and active agents.

Foucauldian analysis focuses on the spoken, not the speaker (Ransom 1993) thereby negating the importance of commonality and difference between speakers.

Callero (2003) draws on the work of Durkheim, Goffman and Foucault in order to propose a framework for 'understanding the collectively instituted conceptions of the public self, the means by which these conceptions are produced and the disciplinary techniques of power that are deployed in the process' (Callero 2003:121). His theory does not deny the work of symbolic interactionsists on 'fronts'; it develops and consolidates public presentations. The means by which an individual locates themselves during an interaction and the projection of the public self can be considered through the concept of positioning.

Davies and Harre (1990) use the notion of 'positioning' which acknowledges the active mode an individual takes in order to locate themselves within a particular discourse during social interaction. A man accused of murdering another man may locate himself within a discourse of traditional masculinity, underscored by male strength. He may consider himself a vessel of reactive biologically driven responses (fight or flight) triggered as a means of self-defence. Davies and Harre (1990) recognise two aspects of positioning operating simultaneously - the ability to produce discourse, and to be manipulators of it. Positioning will serve many purposes for the individual not least that of providing an investment. Men who murder and experience life imprisonment may, similarly to other violent men, 'position reflexively within a particular discourse and outwith other discourses because of the presentation of an 'unspoiled self' (Ballantyne 2004:78).

According to Ashmore and Jussim (1997), the assertion that selves are 'multiple', fluid, ever changing and constantly on the move, is correct. The self is seen as unfixed and

contradictory. Positioning oneself within a particular discourse will be unfixed. The emergence of new discourses will co-exist with prior ones. Holloway (1989) argues that there are no single discourses - rather dominating and, at times, competing and contradictory discourses. The individual has to co-exist within these and, when narrating, produce a narrative from both dominant and contradictory perspectives. The assertion made by Giddens (1991:54) is pertinent when considering identity: 'A person's identity is not found in behaviour, nor - important though this is - in the reactions of others, but in the capacity to keep a particular narrative going'. Identities belong to groups and individuals. Narratives tell how we construct and represent ourselves. Identity can be considered in terms of the discriminations facing certain groups and individuals within society; the use of language maintains discrimination and oppression in the free community and within custodial institutions. Knudsen (2006:64) correctly asserts that 'identities deal with positions that individuals may be placed inside, interpreted as belonging to and negotiated with'. In this context the theory of intersectionality adds a further dimension from which to understand the complexity of identity formation.

4.4. Intersectionality Theory

Intersectionality emerged as a concept during the late 1960s in conjunction with the feminist movement, particularly Black feminists. The theory questioned the belief that gender was the primary factor determining a woman's fate (bell hooks 1984). In contrast to sociologists such as Goffman, who consider multiple identities as removable cloaks (whereby individuals are able to take one layer or mask off to suit the encounter or situation), intersectionality considers that we are everything we are at the same time, whilst recognising that our experiences differ to others according to our personal circumstances. For example an unmarried MLS prisoner's experience of imprisonment may differ to married MLS prisoner's experience. Whilst the above section on discourse refers to the ideas of competing discourses and the internalisation of discourse, intersectionality examines how competing discourses are internalised by the individual, suggesting that separate discourses do not just lay on top of each other undisturbed - they intermingle. Knudsen (2006) associates intersectionality with the Foucauldian notion of power and introduces this in procedures of exclusion and inclusion to analyse the production of power and process between categories. For Knudsen, the theory involves 'analysing social and cultural hierarchies within different discourses and institutions, rather than looking at majority culture it reflects the minority' (2006: 61-2). Here we can consider the minority

indeterminate population of MLS prisoner (see chapters 1 and 2). I will draw on my data to demonstrate that the concept of intersectionality can help us understand the various ways in which serving a MLS interrelate to shape the multiple discrimination and oppression which men who murder face when preparing for, and are, released. The encounters experienced as part of the journey toward release can be considered using Collins' (1986) concept of 'outsiders within'. Here a person, privy to the life and values of an institution can be an insider during the encounter, but due to their status are precluded from belonging and as such remain an outsider (see chapters 3, 6, 7). This is particularly pertinent when considering the position of MLS sex offenders (see Hudson 2005). Lee (1973:64) notes the positive quality of social difference, particularly marginality: 'marginality can be a most stimulating, albeit often painful experience'. For some, it is debilitating. Drawing on my interview data in chapters six and seven I will argue that having a highly stigmatised identity such as sex offender can be debilitating in the context of finding paid work when released from prison (see also chapter 2). The context is of importance when considering how differing identities intersect for an individual. Oppressions are not independent entities - they are interrelated and create an intersection of multiple forms of discrimination (Knudsen 2006). The theory of intersectionality stresses complexity.

4.5 Identity and Prisoners

Theorists from a range of different perspectives have considered prisoner identities. In the subsequent sections I draw on such research to demonstrate how symbolic interactionists and discourse analyses have used and developed the general theoretical perspectives outlined above to explain the formation of prisoner identities. As far as I am aware intersectionality has not yet been used in this context so will not be discussed in this section. Goffman (1961:11) produced a comprehensive study of inmates in total institutions providing an account of the inmate's situation within the institution in order to 'develop a sociological version of the structure of the self'. He described a process called mortification; the result of degradation, humiliation and profanation. During the mortification process pressure is placed on the prisoner to accept the institution's definition of them. Goffman (1961) stresses the dynamics of mortification whereby the psychological assault of the self is pronounced. The usual supports we have for expressing our personal identity are greatly diminished as a result of mortification. Conversely, Svensson (1997) sees Goffman's mortification as enabling people to develop a self in opposition to normal life.

On entry to prison Goffman (1961) claimed the civilian self is stripped of the supports that maintain self-concept. The self-identity is removed and a new identity is assumed through technical means such as photographs, case records, fingerprints. Admission to prison is an infantilising experience (Goffman 1961, Oakley 1984). Svensson (1997) likens the prison environment to that of a nursery where the prisoners are reduced to a child-like state, being totally reliant on others to make decisions for and about them. Institutions that insist on uniformity undermine self-respect and foster apathy and dependence, making the helpless more helpless (Goffman 1961). The labelling of prisoners is one of the most important and lasting consequences of being in a total institution. Goffman (1961) claims it is the label, rather than the experience, that makes the return to society difficult. One of the most notable impacts of long-term imprisonment as reported by Flanagan (1979, 1980, and 1991) is the assault on self-esteem. Here the prisoner is unable to maintain a self-image and self-esteem as an autonomous adult, all of which impact on identity in general and are a particular threat to the notion of a traditional masculine identity (see chapter 3).

Removal from society for an unspecified period of time will result in losses to the person. Jewkes (2002) argues that life imprisonment strips the prisoner of their fundamental sense of 'being' such as that of a husband, lover, father - a situation from which the lifer is estranged. Such losses will impact on their identity, their sense of self, self image and self esteem. The enforced separation has to make way for a new alternative identity, an identity that is most confirmed when visits take place, and the father, husband or lover becomes a friend or stranger. The prisoner has no sense of a release date to draw upon and therefore cannot commence re-enactment with his previous roles and identity. The disruption of the life-course (see section 4.7.) and impact on identity is most evident during visits. The former identities are stripped and the MLS identity is reconfirmed as that of murderer, and hence less desirable than any previous identity.

Attributes that make a person less desirable, bad or dangerous are stigmas according to Goffman (1963). In the case of the stigmatised person the 'spoiled identity' is an identity that is ascribed to the person from outside sources with a related value - good or bad positive or negative. The person with the stigma is seen as not quite human resulting in the creation of stigma theory, which is, according to Goffman (1961), an ideology to explain his inferiority and account for the danger he represents. Imprisonment effectively enables:

‘cutting him off from society and from himself so that he stands as a discredited person facing an unaccepting world’ (1961:15). Irwin (1970) considers stigma operating at two levels - the subjective, how the prisoner perceives his/her stigma and how this is perceived by others; the two may differ. Secondly, how the stigma is managed in formal and informal settings. The stigmatised, according to Goffman, engage in processes of self-presentation to show themselves more favourably to others, often going to great lengths to conceal and deny their difference. Concealing and denying an actual or given identity can manifest and remain sustained in the accounts produced by individuals.

It has generally been accepted that serving a life sentence carries a specifically negative stigma (Sapsford 1983). The lifer has this negative stigma attributed to him as a form of societal recognition for extreme wrongdoing. The life sentence is a way for society to characterise those who must be sifted out and differentiated among the prison population in general and, in a very particular way, for MLS prisoners through the sentence (see chapters 1 and 2) and the label murderer in the perceptions of prison staff and MLS prisoners (see chapters 7 and 8 where I develop and evidence this argument). Although for most of my interviewees I will demonstrate the acceptance of this stigma of murderer first and foremost I will also demonstrate that there is a double blemish, that of lifer murderer and sex offender.

Within chapter three I highlighted how the research on long-term prisoners failed to differentiate between the MLS and other life sentence prisoners. It is therefore impossible to know if the label attached to the offence and any identity assumed, spoiled or otherwise, was managed throughout the sentence and subsequently translated in relationships both within and beyond the prison. Foucault helps us consider how institutions exercise power over the confined. However, spoiled identities help us to understand how others may view men who murder, and, how murderers view themselves. Goffman saw the deliberate management of public identities as a way to conceal a spoiled identity. Concealing an identity by displaying a plausible discursive alternative is well acknowledged in the literature (Breakwell 1986).

The way men cope, adapt and adjust to life imprisonment and loss of any identity and the construction and or maintenance of alternative identities within the prison setting are of concern for this thesis, particularly as men near release. When considering murder, it is

important to remember that the offence is actual - it is not supposed, but has occurred: a life has been taken. The spoiled identity has to be considered within this actuality as 'a prisoner's sudden recognition that through his own actions, his life as he knew it has changed forever' (Crawley and Sparks 2005:69).

Many prisoners find prison an uncultured environment; the living conditions and associating with people (prisoners and staff) who, in the free world, would be avoided. These prisoners have difficulty in adjusting to, and loathed having, a prisoner identity (Crawley and Sparks 2005, Sapsford 1983). The citizen status will be replaced by a prisoner status, constructing, developing and reconstructing itself throughout the sentence. Schmid and Jones (1991) believe such a shift places demands on the individual and seriously challenges prior identity, whilst at the same time the challenge offers some form of protection. Following the initial stages of resistance and readjustment (see chapter 3), life inside can be used to reconstruct and recreate the self (see Cohen and Taylor 1972). Imprisonment for Boyle (1977), McVicar (1974) and James (2003) was a vessel for their emotional, physical and intellectual growth, as acknowledged in their autobiographical writings. The interrelationship between pre-prison and prison status can be a powerful determinant in how adjustment to imprisonment takes place and will impact on identity during the custodial and post custody period.

The identity applied to prisoners by professionals can provide descriptions such as good or bad prisoner. The judgement is based on past case histories, official records, life and offending history, previous prison reputation and how demanding the prisoner is to work with. Once the description has been made it may become a self-fulfilling prophecy (see McVicar 1974, Boyle 1977⁸⁰). If the prisoner's self image is redefined to confirm the opinions and expectations of others in line with the label imposed, the concept of master status becomes evident. Becker (1963) specified that most statuses have a key trait that serves to distinguish those who belong from those who do not, this being the master status (see Hudson 2005 on sex offenders). According to Becker (1963) one receives the master status as a result of breaking a rule and the identification proves to be more important than any other. Interview evidence presented in chapter seven and eight suggests that the MLS

⁸⁰ For examples of aggression in custody to which they readily subscribed at the time after assuming the label of aggressors.

prisoner will be identified as a murderer first themselves and the staff that work with them. This sentence is only available for murder and as suggested within the introduction to this thesis my experience is that many MLS prisoners identify themselves to others in this way.

The notion of master status negates the differences between prisoners, both externally attributed and internalised. For example, the sex offender is differentiated from the gangster. In terms of identity, Sapsford (1983) found that sex offenders used the process of conversion (see chapter 3) as a means of attributing 'self-abnormality' with a view to being 'cured' by the institution. Crewe (2007) likens this process to one of strategic identity, where the prisoner adopts an identity to gain favourable status within the prison. Both are self-serving processes and both a means of adapting to institutional life.

Crewe (2005) found little in the way of a shared criminal status; beyond sex offenders he found conviction category had little impact on one's position within the prison hierarchy or interpersonal respect. The Morris's (1963) study found sex offenders were resented by both staff and prisoners alike. Rapists were only considered sex offenders in the Morris's study if the victim was a child. This is indicative of the cultural, ethical and moral changes in society emerging since the 1960s. The identities and reputations of prisoners were of no interest to the modern prisoner according to Crewe (2006). This is contradictory to much of the sociology of prisoner literature. 'Gangsters and sex offenders' are titles that are problematic and subject to subtle qualifications relating to the nature of the original offence and the reputation established within the prison, according to Cohen and Taylor (1972). Child sex offenders are denounced and professional criminals have historically been the 'top men' (King and Elliot 1977). Unlike Irwin's professional criminals (see chapter 3) who had an affinity with the outside world, King and Elliot's 'top men' had few outside contacts and did not rely on involvement in cliques within the prison. Their reputations and ascribed identities secured their position with both staff and prisoners. Crewe's (2006) findings therefore differ vastly to earlier reports (Cohen and Taylor 1972, Boyle 1977, McVicar 1974, Parker 1994 and James 2003). All give good accounts of how offences and reputations dominated the prisoner hierarchy and inform how prisoner identities are constructed, managed and maintained. However, in chapter six I argue that hierarchies, whilst providing such examples, indicate that identity is contained within clear boundaries, rather than indicating intersecting identities and the actuality of the experience as evidenced in the data generated for my research.

Crawley and Sparks (2005) found that not only is the type of crime committed important to identity as one adapts to imprisonment but age, previous employment and lifestyle are significant. Crawley and Sparks (2005) found prisoners sentenced retrospectively and aged over 65 when imprisoned refused to accept the prisoner identity as a 'master status'. They preferred to steer the interview to people, events and places outside prison locating themselves outside of a prisoner status. The construction of a prisoner identity was problematic for men who felt their pre-conviction identity was, and would remain, lost. Inability to shed any pre-prison identity in particular to defining oneself through a work identity was noted by Jewkes (2002). A work identity, once the defining characteristic of male working classes, was evident in the ageing prison population (Crawley and Sparks 2005). Sapsford (1983) remarked that prison work was more akin to occupational therapy, stripping prisoners of the marker of a real work identity which located them in the real world (see chapter 3, 6 and 7). An omission in Sapsford's (1983) work is that he does not link or develop this concept with the construction of, and ultimate destruction of, the masculine identity as a result of the impact of life imprisonment, unlike attempts made by Richards (1978), who considered, but did not fully develop them.

Imprisonment assaults the self by dislocating the lives of the inhabitants. Receiving the maximum penalty of life imprisonment is for many a shock, something incomprehensible regardless of acknowledgement of guilt. Crawley and Sparks (2005) draw on the work of Raphael's (1986:69) 'attempts at mastery', which take the form of past coping and survival techniques in which brutalising experiences such as life in the military or institutional care had been endured. The aftershock of entry into prison and the experience is managed in relation to the individual's sense of self and in relation to others, both those who share the experience and those estranged from it. Imprisonment impacts on opportunities associated with maturation such as gaining an education, undertaking a career, entering into a relationship, starting a family and preparing for retirement. Imprisonment disrupts such events known as life-course.

4.6. Life-Course Events and Identity

The life-course is taken to be the series of rites and passages individuals pass through (Billington et al 1998). Jewkes (2002) studied the impact on identity due to a disrupted life-course. It is generally taken that life-course events will be chronologically ordered.

Jewkes (2002:367) argues: 'Events that interrupt the anticipated chronology of life may be experienced as profound assaults on the self and can create relationships with significant others that dramatically diverge from the ideal'.

If we consider death of a significant other, we can see how life imprisonment is a challenge to self-identity. Not only has the prisoner experienced the pain of separation for many years, they will be unable to share the grief with loved ones. Cohen and Taylor (1972:53) noted the death of a loved one can be 'literally and metaphorically shattering', observing for long-term prisoners the dilemma is more pronounced. Participation at burial ceremonies, if allowed, will be in the company of prison staff, confirming and reinforcing the prisoner's identity at the most private of occasions. Jewkes (2005:370) states: 'Interruption of the life-course and the realisation of what has been taken away may be regarded as the ultimate sanction of life imprisonment'. When considering the disruptions discussed, it would follow that some form of mechanism to compensate or replace the disruption, disorder and dislocation of life is introduced by the prisoner; such mechanisms may or may not include forming alliances with fellow prisoners. They may or may not include using one's offence, identity and status within the prison as a means of gaining recognition with others. These courses of action have been investigated and will be examined below.

4.7 Living with Prisoners

One common theme emerging in research is the intrinsic view held that 'other prisoners' were violent alien human beings unlike themselves and with whom they had nothing in common (see Clemmer 1940, Goffman 1961). Sykes (1964:109) emphasises this by stating: 'the worst thing about prison is you have to live with other prisoners'. Prisoners are in effect subscribing to Goffman's stigma theory and attribute a spoiled identity to other prisoners. The theory expounded here can be situated with the adaptive strategy of social interaction introduced in chapter three.

Despite the distancing of the self from other prisoners as suggested by some authors, other research also indicates a loss of the self within the institution and, for some, a possibility of alliance. Goffman (1963) talks of 'identity ambivalence', this being the identification within a group sharing the (perceived) spoiled identity or stigma. Morris and Morris (1963:168) found many prisoners regarded the submergence of their identity into the

faceless mass as a major onslaught upon them as individuals, quoting a respondent: 'The most terrible thing about prison is that no one, at any time, has ever been concerned about me as an individual'. A possible means of alleviating this situation was identified by Crewe (2005), who found that lifers promoted a culture of support and respect amongst themselves, and as such were indicative of Goffman's concept of stigma. The person with the stigma, according to Goffman (1963:132), defines himself as no different to others and: 'at the same time those around him define him as someone set apart - he will therefore make an effort to find his way out of this dilemma.'

One way out of Goffman's dilemma is through engagement with processes that form the dominant discourse of the day. Dominant discourses will change across time and are bound in cultural, political and social subjectivity. The emphasis may be on welfare and reform or punishment and deterrence. The dominant discourse of the rehabilitative ideal may have subsided and been replaced by other more punitive discourses (see chapter 2); however the majority of MLS prisoners will, at some point in their prison career, have participated in rehabilitative processes in which identity change is an expected outcome.

Schmid and Jones (1991) found that, in relation to identity, one of the biggest fears prisoners had was that of being changed either through rehabilitation or the hardening effects of the total institution. Prisoners have noted in autobiographical accounts how they have developed a hardened self when witnessing violence inflicted on others within the prison setting (see McVicar 1974 and Boyle 1977). In such cases a survival strategy is usually deployed in which the prisoner seeks to retain a sense of identity and self he himself has imposed. The impact on the identity and any subsequent change, either through statutory intervention or use of the self, is an inherent feature of life imprisonment. The MLS prisoner has to change his identity from that of 'murderer' to 'one who murdered but will not do so again' in order to appease the prison, Parole Board and society. The concept of impression management as a vehicle to achieve this is pertinent here.

4.8. Impression Management in the Construction of Identity

The dramaturgical model proposed by Goffman (1959) can be specifically theorised in relation to prisoners. The observers assimilate the information conveyed, either through sign vehicles or the presented front. In the case of the MLS prisoner, the observers are prison officers, psychologists, probation officers, the Parole Board, other prisoners, family

and friends. How he presents to each of them and the identity he chooses to proffer will impact on their decision making process and hence the identity they ascribe him.

Goffman (1959) made a distinction between the front stage and the backstage and this highlights the process of stage management or what the individual conceals from observers. It is here, within the presence of like-minded peers backstage, suppressed facts appear, according to Goffman. Conduct backstage allows the performer an opportunity to regress, to show disrespect for those at the 'front' and to behave inconsistently from how they are perceived by their front stage observers. The process of stage management and the ability to subscribe to a number of given social roles support the notion of multiple identities (see section 4.10).

The process of identity construction is, according to Goffman (1959), reliant upon impression management skills. We all have experience in presenting a 'front' to others; according to Jones and Schmid (2000:422), 'the prisoner will draw on these experiences to create his prison identity'. Schmid and Jones see the prison identity emerging in the same way as any other, 'learned from others, presented to and negotiated with, validated by others' (Jones and Schmid 2000:421). The prisoner therefore cannot be seen as 'too different' from his fellow inmates and his concern over his appearance and persona will, according to Schmid and Jones, be used to create his new 'prisoner identity'. Of equal importance, however, is the fact the research they conducted concerned short-term first time prisoners. We cannot assume the same findings holds for lifers in general and MLS prisoners in particular. The cultural specific characteristics of both prisoners and the prison system will also contribute to Schmid and Jones' findings. Schmid and Jones (1991) believe a false identity is developed, as the prisoner is unable to let others see his true identity. Such a process is reliant on impression management skills (Goffman 1959).

Drawing on Goffman's (1959) concept of impression management, Hudson (2005) claims that sex offenders construct an identity by differentiating themselves from the negative attributes that are typically associated with them. She found that her interviewees were engaged in a process of impression management to preserve a more acceptable social identity.

It has been suggested that memory permits the recovery of former identities and allows the individual to retain a sense of their 'true self', though that perception of self may be adjusted. Jewkes claims that: 'the faculty of memory shifts our sense of self from a painful present to a remembered past and can thus be an important aspect of living with a life sentence or with diagnosis of an incurable illness' (2002:371). However, others have argued that the pre-prison self and identity may be as painful as the present and may not fit comfortably with the prisoner's choice of identity as Parker's (1990:229) interview with a sex offender who had murdered children indicates: 'How can you confess to something like that? You don't remember, your mind won't let you, it can't, never'. Memory may be an aid to retaining a former identity, allowing recognition of the sense of self prior to imprisonment but, as indicated in the above quote, it can also be a means of eradicating an untenable identity. Such eradication would have severe ramifications within the context of the current dominant discourse of risk assessment and management, both of which impact on any consideration of release as the prisoner has to confront and admit to their past.

Schmid and Jones (1991, 2000) understand impression management is not unique to being in prison, but in prison the entirety in which it governs interactions differs. As such, impression management is a more conscious endeavour than in society and failure can result in physical assault or even death - inflicted by others or through suicide. The MLS prisoner has to portray himself as a moral and reformed character (see Hawkins 1983) in order to progress toward release. In this context we can consider the concept of multiple identities.

4.9 Multiple Identities

Much theorising in sociology tends to emphasise the existence of multiple identities and multiple roles in contemporary social life (Deaux 1992). A multiple identity occurs in situations where one identity is emphasised and another de-emphasised. This will depend on the situation and the need to articulate appropriately in the given situation. Multiple identities can be interpreted by relating them to one another symbolically as well as behaviourally, across time and within situations. Multiple identities concern not only power but meaning as people relate in multiple ways to others. This is an alternative way of looking at Goffman's stigma and may be a more appropriate way of understanding how particular groups of prisoners such as sex offender murderers and non-sex offending murderers construct an identity. Hudson (2005) drawing on Breakwell (2001)

acknowledges that multiple identities encapsulate the idea that the extended social identity has an existence independent of its presence in any one individual.

Schmid and Jones (1991) offer a dichotomy of ‘true and false’ identities. The suspension of the pre-prison ‘true’ self identity (and any associated vulnerability the prisoner is experiencing as a result of imprisonment) is substituted for a ‘false’ identity. This identity is one in which the prisoner is seen to be adapting and coping with the sentence. Schmid and Jones (1991:421) see the prison identity as ‘Not authentic not a transformation but an identity construction’. The notion of ‘true and false’ identities is problematic; none of us has one true identity. We all have the propensity to switch to an identity to suit the situation we are experiencing. A more helpful way of viewing the transformation of one identity to another is through the concept of multiple identities, whereby we can critically examine and investigate the effectiveness of the chosen identity and the impact this has on the present and future situation of and for the individual. The multiple identities of MLS prisoners will be explored in chapter seven where evidence will be adduced to show how these are manifested and managed.

4.10 Theoretical and Conceptual Framework

The theoretical framework for this thesis is influenced by the work of Goffman and Foucault. Both acknowledge the prison identity as a process of ‘becoming’ a prisoner during confinement and later the process of ‘becoming’ a released person. The self can be understood through the eyes of others or as being cast as an ‘other’. Prisoners experience this throughout the custodial period and in the resettlement process. In both cases the prisoner is a ‘governed’ subject. Whilst both Goffman and Foucault share the theoretical commonalities mentioned above they also differ. Foucauldian analysis specifically deals with how the individual (and self) is constructed in and through society. Change occurs as a result of the process of classification, analysing and objectifying in social, medical, economic and political ways. Foucault is less interested in any one individual’s personal situation; of greater import is the societal infrastructure that imposes and allows the control and power of oppressed groups in particular.

Goffman is more concerned with how individuals present to others and to themselves. His perspective is both symbolic and dramaturgical. Symbolic in the sense others will rely on the contact with, and the behaviour of, an individual to form an impression of him/her;

dramaturgical in the sense that he uses a perspective drawn from theatrical performances. Dramaturgy has been used by Goffman to examine how we establish meaning to our lives. The context for behaviour is examined, not the cause; this is where it differs from other sociological theories. We must according to Goffman (1959:63) 'be prepared to see that the impression of reality fostered by a performance is a delicate fragile thing that can be shattered by very minor mishaps'. In this thesis it will be argued that in the case of MLS prisoners, the performance may become fragile when important dates such as parole hearings, or events such as visits are not met (see chapters 6-8).

There are contradictions between symbolic interactionism and discourse analysis, two different and conflicting schools of thought. Interactionist studies of deviance have, according to Dennis and Martin (2005:191), 'been concerned with the authoritative imposition of consequential identities i.e. with social processes through which power is enacted and institutionalised in real situations' whereas Foucault's far reaching influence stems from exploring the ways in which 'the everyday practices of individuals and groups are co-ordinated so as to produce, perpetuate and delimit what people can think, do and be' (Dreyfus 2003:32). The two theories may appear diametrically opposed, as Foucauldian concepts of power are construed, in part, in terms of structural inequality of resources, and symbolic interactionism interprets interpersonal phenomenon. However, these two schools of thought can be used to complement each other, as seen in the work of Becker (1963): rather than ignoring and rejecting power relationships, he examines and offers an understanding of how these relationships are endorsed in institutional contexts as does Goffman's (1961) work on psychiatric patients in institutions. Further to this, Szakolczai (1998:1407) identifies how both theoretical perspectives have rejected explicit theories of power and define how social organisation belies the struggle for social groups.

The application of discourse analysis, in terms of how the prisoner is located within a regulated structure during imprisonment and how he is perceived and treated by those who manage his sentence, can be considered through the narratives produced by staff and prisoners. Power is not a personal possession under Foucauldian analysis but an effect of discourse. According to Foucault (1972:49) 'discourses are the practices which form the objects of which they speak'. Hall (2001:72) elaborates upon this:

Discourse ...the way that a topic can be meaningfully talked about and reasoned about. It also influences how ideas are put into practice and used to regulate the conduct of others.

The above quote is of relevance to this research when considering the narratives of both staff and prisoners in relation to identity, impact and release. However, the data discussed in chapters six and seven of this thesis suggests that men serving a MLS may not meekly assimilate accepted discourses about them; they may also confront or challenge the impact of the offence and the reactions of others to them. This can be seen through the work of Scott and Lyman (1968) when considering the accounts and narratives offered. There is a need to acknowledge the presence of the speaker and audience when analysing the spoken. Goffman's work can help us do this. This omission in Foucauldian methodologies can also be addressed by the theory of intersectionality (Knudsen 2006), which considers the impact of oppression and discrimination as being intertwined with power, whilst acknowledging the speaker.

The work of Goffman (1959) and Breakwell (1993) on multiple identities can also help us understand how the acquisition of multiple identities may assist in minimising the impact of serving a MLS or, conversely, impede the process of progression. Whilst this has some contradictions as noted by Harre and Davies (1990) regarding positioning and the unknowing self, I have overcome this by choosing to use the term 'co-existing identities'. Unlike multiple identities, which indicate stepping out of one and into another identity, co-existing suggest all identities are kept with the person but, depending on context, different ones come to the forefront. I will provide evidence within chapters six and seven to demonstrate this.

Having said that, identities do not simply co-exist - they also intersect. Intersectionality theory offers insight into the differing and shared impacts of oppression on particular individuals and groups. Traditionally, intersectionality theory refers to the interaction of structures of domination such as gender and ethnicity (Collins 1986). But Skinner (2011) is developing it to assist in her explanation of how the differing experiences of those who appear to share the same structural position can intersect to form different identities. This can be applied to my research. In chapter seven I will provide evidence, for example of how a MLS prisoner who has attended and internalised ideas from a therapeutic community may differ in his sense of self from a MLS prisoner who has not. In other

words, although each MLS prisoner will have shared elements of a spoiled identity, they will differ (if only slightly) in how they experience it. I use the data gathered for this thesis to argue that unlike the co-existing identity, the intersecting identity is one which is fully embedded and integrated into the self. The individual accepts and acknowledges it; it appears to be (as far as one can) tell genuine.

In order to consider the experience of imprisonment and further conceptualise the above theories, I will draw on the perspective of Visser and Travis (2003) who considered the success and failure of prisoner re-entry.⁸¹ Concerned with a lack of research pertaining to post-prison reintegration and adjustment, they explored individual transitions from prison to the community, naming this 'transition re-entry'. Their longitudinal framework takes into account the individual circumstances of the prisoner prior to imprisonment, experiences during imprisonment and post-release. However, I will use the term 'preparatory re-entry experiences', as the MLS prisoner in my study is not returning fully to free society - rather, he is making a preparatory re-entry.

The above theoretical perspectives come together in five stages. Each stage involves the formation of identities and is linked to the stages of imprisonment undertaken during a MLS as identified in chapter one. The first stage is the MLS as a result of murder. The second is where the prisoner and lifer identity is developing in response to closed prison and the adaptation features discussed in chapter three. Identities change all the time and as a result challenge our sense of self. However, there are key areas where co-existing and intersecting identities may develop and most dramatically challenge a sense of self, such as participating in programmes and therapy - stage three. The management of these identities becomes most pronounced when in open prison and the community - stages four and five.

The analysis chapters of this thesis utilise this framework by incorporating themes associated with the stages. However, these are more complex than telling a linear story and therefore weave back and forth in time. Chapter six considers life in open prison and the management of co-existing identities. Chapter seven correlates with stage three where co-existing and intersecting identities are developed and managed in terms of programmes and therapies and the subsequent advancement through the MLS. Chapter eight relates to

⁸¹ The process of leaving prison and returning to free society.

stage one and considers the prisoner's perceptions of the sentence. Stages two and five are integrated where appropriate throughout the analysis chapters.

During each stage of imprisonment from remand to release from open prison, the MLS prisoner is involved in developing, maintaining, managing and reformulating a number of identities. It is how the prisoner manages and negotiates his identity within these stages that is of importance in order to reach the final stage of the MLS, life on licence. Men who murder have more than one identity. As with all of us, they have unique and individual characteristics that make up who they are. In this thesis I use my data to argue that it is how they incorporate and manage these identities within the duration of the MLS and the experience of life imprisonment that compounds or assists their progression towards release and as a 'mobile prisoner' on life licence. Using narratives, I will demonstrate in the findings chapters how various intersections create a vehicle for co-existing and intersecting identities during each of the stages. The narratives will therefore weave back and forth in time to represent the experience of life imprisonment from point of sentence to life in open prison. The conceptual framework of this thesis is based on the premise that identities are fluid and dynamic and individuals operate within a framework of co-existing (and intersecting) identities, which are dependent on given situations and purposes and are constructed through the production of narratives.

4.11 Conclusion

This chapter has considered theoretical perspectives relating to identity and identity in the context of imprisonment. Most criminal identities are shaped when society reinforces deviant identities through stigma, labelling and institutionalisation (Svensson 1997). The prisoner identity can be made more distinctive by the use of sanctions imposed within the prison, such as segregation, attendance on specialist courses for sex offenders, entry to therapeutic communities for violent men and the indeterminacy of the sentence. The implementation of impression management skills and the adoption of multiple identities had been viewed by some theorists as a means to enable progression in the sentence (see Irwin 1970 and Sapsford 1983).

Foucauldian methodology was considered, but discounted, as the main methodological and theoretical framework on two grounds. Firstly Foucault focuses on the spoken, not the speaker. The emphasis of this study is the experience of the prisoner serving the MLS.

Foucault acknowledged difference but at the same time perpetuated sameness. Such a framework does not distinguish the kind of differences experienced by prisoners in the way that intersecting and co-existing identities do. Foucault's focus was on the wider social structure and not the individual. Whilst this was useful for considering concepts like regulation, he did not consider time in respect of how individuals experience time and the ensuing impact loss of autonomy over time has on them. This is a deficit in his work, and one considered within this thesis. Time is a key feature when considering indeterminacy and, as will be demonstrated in the narratives, the concept of time had many meanings and was of great importance to the men.

I will utilise the work of Goffman - in particular the concepts of stigma and spoiled identities. However, as my critical assessment of his work indicates, I do not follow Goffman completely or Breakwell (1993) on multiple identities. I have started to discuss how the theory of 'co-existing' and intersecting, rather than multiple identities, best explains the position of the MLS prisoner during his prison career and subsequent release. This is the argument I intend to evidence later on in the thesis based on my interviews with prisoners and staff. Co-existing identities are informative when considering managing spoiled identities in the context of imprisonment and interventions. During these times, the prisoner is identified as a murderer and is challenged with the task of acquiring a new non-violent identity. For example, in order to progress, he may have a conscious awareness of the pretence of using a particular discourse, but may not fully engage with the discourse; therefore his identities co-exist. For others the discourse is fully integrated into their lives and they have identities that are more clearly intersecting. These prisoners may also be those who are unable to hide the spoiled identity. There may not be a complete dichotomy between co-existing and intersecting identities, as the MLS prisoner may have both at some time. He may use co-existing identities as a front and these may permeate other identities - for example when in open conditions and working out in the community. His identity as a MLS prisoner co-exists with his presentation as a quasi-free person. These ideas will be discussed in full drawing on evidence in the analysis chapters.

The journey of most MLS prisoners will result in release and re-entry into an unfamiliar society (see chapters six, seven and eight). The preparatory experiences he has undertaken in closed and open conditions prepare for this eventually (see chapters six and seven). In chapters six and seven I argue that during his preparatory re-entry experiences his

management of a spoiled identity will be considered, managed and co-exist with his previous view of himself or an internalised view of what he can be.

The theories discussed in section 4.10 underpin the conceptual framework of my study. This thesis will examine the operation of co-existing identities evidenced within different phases of the MLS and supported by preparatory re-entry experiences. These identities will be considered within the context of the narratives produced from the interviews and will form a dialectic between the data and the literature. The following chapter will discuss the process undertaken, research methods used and the analytical approach adopted within my study.

“It is hard to tell people you are a murderer, and they find it hard to hear” (Daniel)

Chapter Five: Methodology

5.1 Introduction

The research question: “How do men who have murdered experience life imprisonment and the concept of release” lent itself to a number of methodological approaches including interviews and observations, the applicability of which will be discussed within this chapter. The aim of this study was to examine and investigate how a MLS for murder impacts on a male prisoner’s identity. My key objectives were:

1. To examine the MLS – law policy and perceptions of practice.
2. To theorise and investigate the impact of a MLS through the discourses of professionals and prisoners.
3. To examine how men who have served a MLS for murder approach release.
4. To contribute to prison research concerning the impact of imprisonment on the identity of the MLS prisoner nearing the end of his ‘tariff’ and debate on the efficacy and justice of the MLS at a time of growing use of indeterminate sentences.

In order to achieve the aim and objectives, the choice of methodology eventually adopted was interviewing. The study draws on in-depth interviews with eighteen MLS prisoners who were in, or had experienced, open prison and ten professionals working in open prison. The interview questions (see appendix 6 and 8) were therefore devised with the intention of eliciting information that addressed the objectives, but which also allowed for elaboration and exploration of individual and collective perceptions and experiences pertaining to life imprisonment for murder and the impact of serving a MLS on the prisoner’s identity.

The purpose of the chapter is to consider how the research aim and objectives were formulated and carried out. Within this chapter I will discuss my research design, and how I selected the institutions and gained access. The discussion will consider the approaches made and the appointment of a gatekeeper. I will examine the main method of data collection - interviewing. The chapter will consider how the interviews took place with staff and prisoners. Further to this, consideration will be given to interviewing and personal safety. The discussion then turns to the topic of sensitive research. Here I have paid particular attention to the impact of interviewing on the researcher and the researched. This

is followed by addressing codes of ethics, including confidentiality and anonymity. The discussion then examines how the data was approached and analysed. At the end of this chapter I introduce the prisoners who took part in this study.

This thesis is concerned with how prisoners experience a MLS and construct their identities through discourses and how staff view MLS prisoners and are involved in their identity construction and reconstruction. Such attention to complex understandings of the self and others requires a detailed qualitative analysis. Qualitative methods have been the preferred method of many criminologists (see for example Carlen 1985 and 1988, Worrall 1990). The advantages of such analyses are the focus on portraying the world of those studied in which ‘reality is socially constructed, complex and ever changing’ (Murray Thomas 2003:7). The significance of detail elicited from participants contributes to an understanding of the context in which behaviour and experiences take place (Geertz 1973). I chose to undertake this through interviews as they ‘yield rich insight into people’s biographies, experience, opinions, aspirations, and feelings’ (May 2001:120). Interviews allowed me to gain an insight into serving and working with a MLS. The direct quotations captured personal perspectives and experiences. A further advantage of interviewing was the opportunity to seek clarification and elaborate on topics for later use. This parallels with the idea of retrospective – prospective interpretation (Garfinkel 1967). It is possible along these lines to ask people about future possibilities (release and resettlement) in relation to past experiences (the impact of a life sentence). This enabled me to gain an idea of how people think about issues or come to terms with events in their lives and relate them to other factors that were considered important. This more flexible approach also allowed for the respondents to tell their stories the way they wanted them heard at the time. The knowledge which any kind of interview yields is constrained and shaped by the particular circumstances in which the interview is conducted. This was important to remember when interviewing those serving an indeterminate sentence for murder.

5.2 Sample Selection

At the time of this research there were 139 prisons in England and Wales, of which over 100 housed adult male prisoners. I wanted to research the experience of men who were coming to the end of a MLS and who had some experience of life in the community. There remains a lack of research into the experiences of long term prisoners post sentence. I was

therefore looking to research within an open prison. The open prison estate consisted of 16 establishments designed for adult males; only 14 of these accepted MLS prisoners⁸².

A further consideration when choosing an establishment was my need to be seen as a researcher as opposed to a practitioner. I needed to choose an establishment in which I was an unfamiliar face in order to avoid any potential conflict of interest with current service users who attended my lifer course and who had progressed to the open prison in my area. I had to ensure that I clearly established these boundaries prior to the commencement of the research and any approach to establishments.

The open prison eventually chosen was linked with a closed prison, both managed by the same governor. For reasons of anonymity I have named these prisons HMP Shaw and HMP Blaine. My fieldwork was carried out predominately at the open establishment HMP Shaw which had an operational capacity of 170, including a potential for 40 lifers. However, at the time of my fieldwork HMP Shaw was not operating at its full capacity for lifers and my original intention of interviewing 20 MLS prisoners in open conditions had to be reconsidered as only 14 MLS prisoners were available within the prison to interview. As a result of the lack of MLS prisoners within HMP Shaw I decided to interview men in HMP Blaine, who were MLS prisoners and who had been to HMP Shaw (and other open prisons) but were recalled to closed conditions. These men therefore fulfilled the research criteria. It was useful interviewing these men as their experiences provided insight into the impact of imprisonment on identity. The eventual sample size was 18 MLS prisoners comprising the total population of MLS prisoners at HMP Shaw and the additional four MLS prisoners returned from HMP Shaw to HMP Blaine on recall.

At the commencement of my engagement with HMP Shaw there was an expectation that up to 20 sex offender lifers would be housed within the prison; at the time of my research, this figure was less than 10. In part this was due to the relative newness of accepting lifers (and sex offender lifers in particular), absconding and local public unease. I will be discussing these factors in later chapters. Prior to acceptance at HMP Shaw, each sex offender lifer had to undertake a further period of assessment within HMP Blaine for a

⁸² Of which three accepted MLS sex offenders.

minimum of four weeks. In reality this was as long as six to 12 months depending on access to appropriate courses, progression and minimisation of risk. This was regardless of his having already attained category D prisoner status elsewhere. At the time of my interviews at HMP Blaine the sex offender lifer population was 26 lifers and therefore over capacity. The over population at HMP Blaine was, and remains, indicative of the current trend in the rising prison population of the United Kingdom. At this point I will again advise the reader that a high percentage of the prisoners in this study were classed as sex offenders (eight men). It is impossible to know if this sample of prisoners is representative of the MLS population in general, or unique to the particular prisons chosen for this research. When approached for clarity, the MOJ (2010 - private correspondence) confirmed the difficulty of ascertaining such information:

A mandatory lifer is a murderer and will be classified by this primary offence. Without looking at case records (and exceeding cost limits) we have no way of knowing if there was any sexual element to the murder or if there was any previous sex offending in the offender's criminal history.

Having decided on which establishment I wanted to undertake the research, I went on to seek access.

5.2.1 Obtaining Access

Access is dependent on a number of factors including refusal of admittance due to security issues and obstruction from officials. I did not find any resistance or difficulty in obtaining access. The reason for this could be my previous experience (as outlined in the introduction to this thesis) together with the Prison Service being more open to research than in previous years. Initial contact was made in writing to the Prison Service area manager. This took place in February 2005. I followed this through with an outline of the proposed research and my credentials. Further to this a personal meeting was arranged. It was agreed at this meeting that I would be allowed access to prisoner dossiers. A copy of the research proposal was sent to the lead psychologist in order to ensure that the proposed research did not contravene ethical or moral boundaries. This is common practice when research is conducted within prison. At all times the importance of not exploiting a vulnerable research group remained paramount.

Prior to data collection, I was invited to undertake visits to the prisons to meet staff and prisoners. Becoming a relatively familiar face within the prison was beneficial as it added to the continuity of the process and provided a source of contextual information about people, procedures and events which I documented in a live record in a field work journal. I continued to keep this journal throughout data collection. The area manager had made it very clear that he wanted his staff to co-operate with me and assist me with the research, and this was evident on the visits undertaken in June and October 2005. I commenced data collection in November 2005 and ended in June 2006. Whilst this may seem a relatively lengthy period of time, it was not, considering prison service demands and my part time research status.

5.2.2 Appointment of a Gatekeeper

Gatekeepers can be used to ensure continuity of the research process and as a way of gaining access to potential participants. A role of the gatekeeper is to ensure that the researcher has a point of contact to discuss matters that may have caused concern or distress to either the interviewee or interviewer. The initial discussions pertaining to the appointment of the gatekeeper indicated that a senior psychologist would undertake the role. This was later changed to the lifer manager and overseen by a non-operational senior manager. This worked well as the lifer manager had daily involvement with both prisoners and professionals. I ensured that communication channels⁸³ had been established with the gatekeeper in the event of a prisoner displaying distress during an interview. However, I was mindful of the fact that prisoners may not have trusted the gatekeeper or may have perceived distress as a detrimental factor in their personal progression toward release.

5.3 Data Collection: The Interview

My research has been particularly influenced by the work of Parker (1990) who undertook 12 interviews with murderers (male and female) over a period of time documenting their life history (including offending history) both in custody and in the community. Parker's in depth interviews with offenders have subsequently been called Criminal Conversations (Soothill 1999). I did not intend to replicate Parker, who used his interviews to formulate compelling conversational pieces giving a voice to his participants; rather, I wished to add to the body of knowledge by re-examining how the time spent in prison by men who

⁸³ It was agreed that communication would take place outside of preplanned meetings by telephone and email should matters arise.

murder impacts on their identity and impending release (or in some cases return to closed conditions).

I chose interviews to gain a more in depth account of the prisoners' experiences than could be elicited via a closed questionnaire, which offers no interviewee flexibility. For example, a questionnaire could find out what prisoners did to pass time during the sentence; but the reason they chose particular courses of action and the rationale behind them together with the impact of the choices made would not be uncovered even if using open questions, as I would have no opportunity to follow up the responses.

I had decided against undertaking group interviews⁸⁴ as the prisoners were in an open prison and therefore undertaking a daily regime that would not be conducive to group interview. Each prisoner would be following a resettlement plan – which could include being outside of the prison environment. A further consideration was the nature of offences. If the prisoners had been concealing a specific (spoiled) identity whilst at HMP Shaw, disclosure in a group setting could have had ramifications for them in the community whilst on placement if other prisoners used this information to reveal offences. Therefore such interviews present confidentiality problems. In hindsight I could have considered systematic participant observation⁸⁵. Entering the prison environment in this way may have elicited information on how others perceived the MLS prisoner and ascribed identities. However, at the time of the research HMP Shaw was in its infancy with regard to working with MLS prisoners and further to this not only were there limited numbers of prisoners on site daily there were also limited numbers of staff available within the prison on any given day (see chapter 2). Therefore observing any interaction between staff and prisoner and non-MLS prisoners and MLS prisoners would have been difficult. A situation compounded by the fact that the men in this study were not engaging with programmes or activities (see chapter 6) that could have provided a meaningful sustained observation. Alongside this, finding suitable work placements for MLS prisoners was problematic⁸⁶. The addition of an extra person accompanying the prisoner out on placement may have caused further issues pertaining to disclosure and confidentiality. It was for these reasons

⁸⁴ A method favoured by Cohen and Taylor 1972.

⁸⁵ However, at the time of developing the research design this method was not considered by the supervision panel.

⁸⁶ The prison had previously only been placing out in the community determinate short-term prisoners. I had within chapter 2 explained the difficulties that HMP Leyhill had experienced despite being an established open prison working with lifers.

that I discounted undertaking an observational study. It would have been impossible to observe 18 prisoners in differing locations over a sustained period of time. The use of staff interviews has to some extent compensated for the lack of observational data as the discourses used by the MLS prisoner were also used by the staff (see chapters 6-8).

5.3.1. Semi-Structured Interviews

The particular type of interview I used was semi structured in order to allow for more flexibility in questioning. Using this format I was able to probe, develop questions further and look at how to rephrase questions that were not fully understood for subsequent interviews. The interview strategy, (including the types of questions asked), was an important consideration in the research design, and was guided by the literature reviewed in previous chapters. Therefore some leading questions were incorporated. These questions were asked not to provide one answer, but to focus on issues of importance such as identity. One such example is ‘do you think you are institutionalised?’ This question was asked as staff had indicated that they saw the MLS prisoner in this way. Previous research such as Cohen and Taylor (1972) had only considered the prospect in terms of future time. I wanted to give the prisoners in my study an opportunity to discuss a concept that was attributed to them, by others, from their own perspectives as thinking individuals showing respect for their situation and experiences. However, I would allow the interviewees to add aspects they felt were of relevance to them or which came to them during the course of the interview. I would also ask questions of them based on what they were saying - the story they were telling.

5.3.2 Interviews with Staff

The prison environment employs professionals from a diverse range of occupations and backgrounds. Each comes with their own ethical, moral, legal and professional ideology (see Crawley 2004). The staff interviews took place between November 2005 and February 2006 and were conducted in the boardroom or in private offices. Each person was asked if they objected to tape recorded interviews. None did. The only interview not taped was with a senior manager who gave voluminous information prior to the commencement of the official interview, covering most of the questions. I felt it inappropriate to commence taping at this point. During this interview, I kept a detailed verbatim record of the whole

event. All ten professionals were asked, and agreed to undertake, further interviews if the need arose. The interviews ranged from one to two hours⁸⁷.

5.3.3 Interviews with prisoners

I wanted my research group to comprise MLS male prisoners who were nearing the end of their sentence. Within this group, I was expecting to interview men who were experiencing open conditions for the first time, men who had been released from custody on life licence and had subsequently been recalled to custody and men who had been returned to closed conditions from open conditions. I interviewed all three categories. The interviews took place within the prison boardroom or private offices. Twenty men were interviewed; however, only eighteen have been included as two were not MLS prisoners.⁸⁸ The longest prisoner interviews were with men who had experienced a therapeutic community such as HMP Grendon. I attribute this to the fact that within therapy these men have to dissect every thought and feeling and make their 'private' accessible and 'public'. I also asked each prisoner if they would object to having the interviews tape-recorded; none did. As well as taping, I kept detailed⁸⁹ notes. Each interview ranged in time from one to three hours and took place between March and September 2006. The prisoners were asked if the need arose would they be prepared to be re-interviewed; they all agreed. I did not undertake any repeat interviews with the prisoners as the depth and time of the interviews⁹⁰ and the richness of the material produced answered the questions fully.

The relationship between interviewer and interviewee should not be overlooked (see Sangster 1994, Stacey 1991). Language can reinforce and confirm stereotypes and as such has a propensity to affect the responses in an interview situation. Prisoners and staff adhere to the language of the institution. Such language is unique to this situation and contains jargon that the uninitiated would find incomprehensible and as such becomes a power differential. At times I had to ask what certain words or phrases meant, such as, 'paper sift' and 'bacon'⁹¹, thus shifting the power imbalance from me to the prisoner as an expert in his own situation.

⁸⁷ The staff interviews comprised 78,551 words over 139 pages of transcripts

⁸⁸ Two Automatic sentence prisoners had been put forward by staff (in the gatekeeper's absence) that had not been aware of the selection criteria.

⁸⁹ I have over the years developed my ability to write verbatim notes often using my own form of shorthand

⁹⁰ The prisoner interviews comprised 170,746 words over 282 pages of transcripts.

⁹¹ Meaning a Parole Board Review whereby the prisoner would not be present. 'Bacon' is a derogatory term for sex offenders.

5.3.4 Interviewing and Personal Safety

In the context of interviewing personal safety can be both physical and emotional. As a practitioner working with offenders I have undertaken training which was designed to prepare me for the potential dangers of working with offenders in both the community and in custody. My work with life sentence prisoners has also involved further training in relation to working within prisons. The combination of my professional training and extensive practical experience in interviewing and assessing potentially dangerous people enhanced my personal safety during the face-to-face interviews. I could draw on experience of reading body language, intonations and gut feelings. I was nervous at the commencement of the prisoner interviews in HMP Shaw and I perceived some of the prisoners felt the same way. I sensed tension from some prisoners such as Billy, who was at times quite disconcerting. He would not face me or maintain any form of eye contact at the beginning of the interview; this did alter by the end. Billy was clearly mistrusting of me at the commencement, and I am not sure if his hostility was gender related as he made a point of saying: "It is funny how it is always women who want to know everything about you... no offence meant". I told him none was taken, and we carried on with the interview. The situation then defused and a productive interview ensued.

The interviews with prisoners at HMP Shaw took place in offices identified by staff within the 'resettlement unit'. I informed staff as to how long each interview was expected to take. Before each interview a member of staff⁹² would call for the prisoner and introduce me to him. On completion of the interview I would return to the staff office and inform them that the interview had finished. The prisoner on leaving the interview was free to leave the building and continue with his activities. During the interviews I had to rely on staff to ensure my safety was paramount. The interviews that took place with men returning from work at HMP Shaw were conducted in a room located at the prison gate. The room used was adjacent to the reception and often used by legal visitors to conduct interviews. This room was equipped with an alarm should a potentially threatening incident occur.

⁹² If the gatekeeper was unavailable.

I was expecting prisoners to discuss their imprisonment and identity with me, a stranger; therefore I was prepared to be asked questions about myself. I did answer questions asked of me as honestly as possible without disclosing my home address or unnecessary personal details with any of the prisoners that could put my personal safety then, or in the future, at risk. The kind of questions I was asked included why did I chose this area of research and how did my family feel about it.

5.4 Sensitive research – The researcher and researched

Undertaking research in prisons can be emotionally draining (see Scully 1990: 13-14). In order to safeguard the emotional well being of the researcher and the researched, the impact of interviewing needs to be considered. Brannen (1988:562) has pointed out ‘even professional confidants, counsellors and psychotherapists have their own confessors’. The stress generated when interviewing on sensitive topics, and how to deal with the distress caused, has been largely ignored in academic circles (exceptions being Skinner et al 2005, Batchelor 1994.) When researching an area of sensitivity such as the enforced restriction of liberty due to the act of murder, researchers need to be acutely aware of the emotional implications on themselves and their participants. I have tried to protect myself by attending a university-based discussion and support group entitled ‘sensitive researchers group’, as well as using academic supervision.

I also needed to develop specific strategies for dealing with the data as it was gathered. For example on one visit to HMP Shaw I had an opportunity to read dossiers. I randomly chose one file and was amazed at the depth and content of the documents. On reading this file about a prisoner I felt utter and complete disgust and repulsion with regard to his crime. My response scared me as this particular crime was not sexually motivated nor was it child related. In fact, it was not as heinous as many of the offences I had encountered in my professional practice. But nonetheless it evoked a response that was at odds with both my professional training and personal values and beliefs. I did not feel comfortable with how I was feeling and I had no immediate forum available to redress this. I believe my response was a result of reading his file ‘coldly’. I had no knowledge of this man as a person or had any prior engagement with him; a situation that Parole Board members experience. I decided that I would not read any further files until after I had interviewed the prisoners.

During the interviews with prisoners I felt an extreme sense of sadness when they talked about their victims. Some spoke with humanity as to the total devastation they had caused others. They spoke of their victims by name and with emotion and these interviews had a profound effect on me. I was troubled by their recounts, yet I went into these interviews knowing full well these men were considered dangerous. They had taken the life of another and my questions were designed to elicit responses as to how they had changed over the course of the MLS. I should have considered more the inevitable discussion of the offence. I believe my handling of these sensitive discussions was professional and performed with sensitivity appropriate to the situation. I would not allow the prisoners to dwell on these issues and would interject at appropriate times to move them on to the next question. Not once did I try to minimise or ignore the distress they felt, and I always acknowledged this to the prisoners. However, I had to ensure that I never colluded with any personal victimisation they felt surrounded their own particular case. Becker (1967) commenced an ongoing debate with regard to 'taking sides' by contesting that researchers will inevitably 'take a side'. For Becker (1967:239) the question is 'not whether we should take sides, since we inevitably will, but rather whose side are we on?'

Becker's side taking has been the subject of much debate, argument and counter critique within sociology and has been well documented (see Gouldner 1968, Liebling 2001). Before commencing my research I was not concerned with taking sides. Yet I soon became aware of what Becker (1967:247) meant when he said 'there is no position from which sociological research can be done that is not biased in one way or another' When interviewing staff, I could empathise with their frustrations at lack of resources and the personal and professional difficulties they encountered on a daily basis working with MLS prisoners. I could also acknowledge the frustration and hopelessness the prisoners felt in a situation over which they had no control.

I found using my reflective diary was a valuable source of recollecting events and capturing my anxieties or concerns at any given time. I used my diary to chart my thoughts and feelings and this in turn helped me to focus on matters as each interview progressed. For example, if one professional had expressed extreme views on punishment I could consider whether the response was designed to shock me, to conceal skills deficits, a reflection of what they thought at the time and/ or a means of coping with the nature of certain offences. The attitudes recorded helped formulate how the professionals

distinguish, consider and manage MLS prisoners. The diary also enabled me to keep a check on my own assumptions and biases; helping me to focus and shape the ensuing questions that had been raised by previous interviews. The use of the diary was invaluable during the data collection and transcribing stage. The subtleties and nuances of non-taped events could be as accurately as possible relived by recording feelings, emotions and perceptions in writing on the day. For example my interview with Toby caused me the most disconcertion. Mid-way through the interview he personalised his victim; the pet name he used for her was the same as the one I use for my own daughter. I did not allow myself to dwell on this during the interview, but did on later reflection. I did not permit the coincidence to detract from the interview. I was able to rationalise the name as a pure coincidence. However, I would have been naïve in expecting to leave the research site untainted by the material produced within these interviews, as became evident during the transcription stage (see section 5.6).

5.4.1. Dilemmas of Interviewing

The men interviewed at HMP Blaine were all MLS sex offenders. The way these men presented themselves during interview differed from the interviews with MLS sex offenders in open conditions. They were less relaxed and, at times, appeared despondent about the possibility of returning to the open prison or community beyond. These men had all been incarcerated for many years and having the attention of a woman should not be dismissed; in some cases I was aware of the impact of my gender and sexuality on the participants and my discomfort during these situations. At the end of my interview with Isaac I felt very uneasy as he spoke of his concern at women working in the prison environment: “It is wrong having women work in prison; it is putting temptation before men.” I do not know why, but at this point I became acutely aware of my perfume. Before his comments I had not taken any notice; I ensured on future visits that I did not wear any fragrances.

Joseph also evoked recognition of my sexuality. Joseph had been returned to closed conditions and during our interview I asked him why he this had happened. He informed me it was for possession of pornographic material. I felt uncomfortable and unnerved by the way Joseph was looking at me. I was not dressed provocatively, but I was all too aware that I was a woman in a primarily male environment. The power differentials had shifted at this point of the interview and I was feeling disempowered. Skinner (2005) has

commented on how little is written with regard to coping when the interviewer may be less powerful than the interviewee (see also Harnes 2005, Scully 1990). In order not to let Joseph enjoy this situation or topic of discussion I moved the questions forward to his previous experiences of life in open conditions. I was more alert mentally for the remainder of the interviews undertaken in HMP Blaine. I constantly reminded myself of the nature of the offences.

Having said the above, it is important to note that not all of my experiences of the prisoners were negative. Interviewing all of the prisoners left me feeling humbled at being accepted, albeit for a short time, into their very private and often emotionally troubled worlds. The openness and genuine interest in what I was trying to achieve was clearly displayed by all of them in their own unique way. By most I was treated with respect and courtesy and for the most part never made to feel like I was intruding.

5.5 Ethical Issues

I was guided and bound by the British Criminological Society Code of Ethics, SRA Ethical Guidelines, British Sociological Association and the Economic and Social Research Council Code of Ethics (2008). I was aware of the demands placed upon the prisons with regard to their daily operational activities and was therefore mindful not to impose any greater demands than necessary in order to conduct the research. I discussed with my gatekeeper issues relating to anonymity, confidentiality and disclosure. On meeting with all participants I fully explained these issues in greater detail and ensured all were clear prior to commencement. Despite having permission from the Area Manager to have access to prisoner dossiers I asked each prisoner if they objected to me having such access. A consent form was signed indicating their agreement (see appendix 5).

5.5.1 Informed Consent

Informed consent has been defined by the Social Research Association as an: ‘expression of belief in the need for truthful and respectful exchange between the researcher and the researched’ (Social Research Association 2003: 29). It was important that the prisoners understand what was happening and why the research was taking place. The British Criminological Society Code of Ethics (2003:4: iii) states that the researcher has a responsibility to: ‘explain as fully as possible, and in terms meaningful to participants, what the research is about.’ This involves balancing the information given; not overloading

with technical detail and not withholding information or misleading the prisoner in order to gain inclusion. The clarity and comprehensibility of the information given aided informed consent.

I gave a great deal of consideration to the length and degree of commitment required from participants. I was mindful of other commitments prisoners may have had such as participation on courses, release on licence, home leave and other activities commensurate with progression towards release. I accepted that priority would be given to such situations. However, I hoped that agreement to participate would include an intention on the part of the participants to commit for at least the duration of the interview, which they all did.

As part of the informed consent process, the right to withdraw at any point and without penalty was made clear. This is in accordance with the Code of Ethics of the British Criminological Society (2003:4: iii): 'Consent does not oblige the participant to carry on throughout the duration of the research'. I did not have any prisoners who made this decision but I did have prisoners who, when approached by letter and by the gatekeeper, declined from taking part in the research at the outset. One of them later decided, after meeting with me, to take part. Any participant could terminate their interview at any time; none did. I also made a concerted effort to ensure that each participant was aware that they had the right to ask for specific exclusions of any of the information they had disclosed in the final thesis.

5.5.2 Anonymity and Confidentiality

All actual names have been replaced with pseudonyms in order to protect the identity of the participants. In addition, where necessary, information that would clearly identify the participant has been removed. This is of particular importance when interviewing high profile offenders who, due to the nature of their offence, could be publicly recognised. I used pseudonyms in my diary and I did not label my tape recordings in any identifiable way post-interview with staff or prisoners. Prior to taping, each participant was labelled as interview one, two etc to ensure anonymity and protect confidentiality. In accordance with good practice the tapes, notes and transcripts were all kept securely locked away and only I had access to them.

5.5.3 Problematic Disclosures

The Social Research Association (2003) indicate that researchers cannot be held responsible if any subject freely chooses to reveal themselves as participants in a study. In line with other researchers who have conducted sensitive interviews (see Coker and Martin 1985, Scully 1990 and Carlen 2004) I am mindful of the potential problems this could cause the individual both in custody and once he is released into the community. Should such a situation arise, this must be addressed and explained to the prisoner particularly with regard to the detriment it may have on successful resettlement and re-entry into society. He should be dissuaded from taking such a course of action. If the prisoner is insistent, then the researcher can take two courses of action; exclude the prisoner from the research or change the name to a pseudonym. Two of the prisoners I interviewed used their real first names during the interviews. At the time I was not aware of this; I had asked each prisoner to choose a name by which they would like to be known throughout the research. I only knew these two particular prisoners by surnames and numbers. It was only after the interviews had finished and I was reading their case files, that I found that the names were genuine. I have changed their names to pseudonyms. These prisoners were aware that I wanted them to use different names but, for whatever reason, did not pursue this route. I was unable to discuss this with them as I did not see them again after reading the case files. I therefore felt it was my responsibility and duty to address this matter in order to protect any identification and ensuing distress for any of the victim's families. This incident was a reminder to me to ensure that each subsequent prisoner fully understood what I was asking of them and why anonymity was important. After these incidents I ensured that I obtained their real identity from staff prior to interviews including any nicknames they may have used. The staff will be referred to by a pseudonym involving a first name followed by their professional role within the prison⁹³. The prisoners will be referred by a pseudonym involving a first name only.

The only exceptions to guaranteed confidentiality were in the cases of disclosure of an adverse nature. I informed the prisoners at the commencement of the interview about my stance on disclosure. The prisoners were told that disclosing potential offences or indicating harm to another that had the capacity to be enacted would cease to be covered by the confidentiality clause. Likewise any reports of past or current harm to children

⁹³ If the role was such that it would readily identify an individual the role is referred to as a managerial role.

would suspend confidentiality. In doing so I was following the example of others (see Carlen and Worrall 2004, Hearn 1998, Scully 1990). Protection of any person likely to be endangered had to take precedence over the rights of the participant. The prisoners who participated in these interviews did disclose some information to me that could have resulted in them receiving sanctions and loss of privileges, including a possible move back to closed conditions for using illegal drugs. All of this information was kept confidential because it did not relate to children or the real and serious threat of harm to another.

One of the conditions agreed with the prison was the voluntary engagement of the prisoners. The prisoners were not allowed to receive any form of payment from me. I made a point of informing the prisoners at the commencement of each interview that I could not offer them any form of remuneration for their time. Each prisoner told me unequivocally that they would not expect, nor did they want to receive, anything from me for taking part in this research.

The only time I would stop the prisoners from telling part of their story was when it became apparent the prisoner was taking on a victim role or dwelling on the actual victim of murder. It was important not to leave the prisoner in a state of distress in a relatively unsupported environment such as the open prison. Brannen (1988) notes that issues arising from qualitative research are often highly personal thoughts. As a result such interviews can be stressful for both parties. Interviews do have an effect on the interviewees laying open thoughts, feelings and experiences that may have long been put to rest or in some cases leaving people knowing things about themselves that they were not previously aware. I wanted to leave all interviews on a positive note and tried to end each a natural way and on a note totally unrelated to the research, for example by discussing with staff any imminent holidays they might have mentioned pre interview, and with the prisoners talking about any specific interest they may have mentioned pre interview.

5.6 Managing the Data

There is growing recognition of the use of subjective and experiential accounts of prisoners. However, Corcoran (2005: 139-141) warns of the danger of assuming unity or false identification with participants (see also Finlay 2001:64). Researchers can be drawn into a particular discourse as a result of the skilled manipulation of the respondent (Skinner 2005). In order to avoid this during analysis I needed to approach this phase of the

research carefully. The first step undertaken was transcribing the interviews. Transcribing is not just hearing what was said but the way it was said, the unspoken moments, the change in intonation and the elicitation of emotion. As part of the transcription process, the detailed notes from the fieldwork diary and data from dossiers were reviewed. All of the interviews were transcribed verbatim. Transcribing the material in the way discussed above enabled time for reflection. Reflection is an important process regarding the emerging messages. What might have initially appeared useless, on further examination sometimes proved useful. In listening to the tapes again and again, the intensity of the subject matter was revisited with prisoners recounting the traumatic experience of murder and a life sentence. The process of revisiting the interviews was an uncomfortable one. The stresses of the actual interview situation were re-enacted during transcription. I found one interview particularly difficult to listen to and read through given the horrific circumstances relating to the murder of a woman⁹⁴. It took me almost two years to come to terms with these issues and detach myself personally from this offence and thereby use this material constructively within the research.

After transcribing, consulting my field work diary and dossier notes, the more formal process of breaking down the data commenced, exploring it in terms of general and particular units of meaning. I was looking for patterns, themes and consistencies and what Hitchcock and Hughes (1995) refer to as exceptions to the rule. I was seeking to organise the data in such a way as to facilitate understanding of the meaning and significance, putting some form of order on the data without distorting it. I approached this by considering the topics and themes that emerged from the interviews. Using codes and categories helped break the data down into manageable pieces, allowing for identification of relationships and units of meaning.

Strauss and Corbin (1998) developed a progressive coding framework; open, axial and selective. I have adapted this framework for my analysis. Open coding is the process in which concepts or labelled phenomenon are identified. The data is broken down and closely examined and compared for similarities and differences. Examining similarities and differences allows for discrimination and differentiation (Strauss and Corbin 1998:103). Concepts can then be classified. The literature is also a source of concepts. I

⁹⁴ I will not be describing this particular offence or the circumstances as the unusual nature of the offence could lead to identification of the prisoner.

have listened to what the prisoners are saying and attempted to understand the events and how they have interpreted them. I have been mindful of Skinner (2005:54) and re-analysed transcripts ‘highlighting themes and piecing together information gathered within contextual considerations in order to extract levels of manifest and latent meaning’. From this I was able to develop a greater understanding of the discourses from which the themes arose. Following Skinner (2005:54) as the coding progressed a more ‘complex dialectical process’ developed, whereby movement between literature and the interviews was considered within my own theoretical development.

Axial coding is the process whereby the data is reassembled through statements (Strauss and Corbin 1998). Such statements consider under what circumstances an event occurred or what a given outcome may be. In the case of MLS prisoners, an outcome could be the reformulation process described by Wheeler (1961), whereas a context could be the disrupted life-course as proposed by Jewkes (2002) (see chapters 3 and 4) and can have a theoretical dimension. The basic task of axial coding is to identify the conditions, actions and interactions and sets of events that create situations, issues and problems pertaining to the phenomenon and help to ‘explain why and how persons respond in certain ways’ (Strauss and Corbin 1998:130). The challenge was to make sense of the considerable amount of data. By reducing the amount of information and identify significant patterns I was able to construct a framework for communicating the nature of what the data was revealing.

Table 5.1 Example of coding frame

<u>Statement</u>	<u>Context/ Theory</u>	<u>Situation</u>
Talk about impact	Individual/Spoiled Identity	Education, work, hobbies, families, friends

For example the statement ‘talk about impact’ relates to aspects of serving a MLS. This was generated by the staff and prisoners responses to questions relating to the experience of imprisonment. The areas included coping with the sentence and modes of adaptation. The identity of the prisoner becomes intertwined with the stigma of the offence. From these factors the theory of spoiled identity emerged. The factors underpinning the

statement, context and theory included situations such as education and relationships. Some interviews implied that adapting and coping was related to a particular identity based on the nature of the offence and was concealed by engaging in activities such as work and education. Others implied the identity was reconstructed as more acceptable through such routes. For others, the estrangement/maintenance of family support contributed toward the identity whilst acting as a coping strategy.

Statements denote many stories reduced into, and represented by, conceptual terms. Strauss and Corbin's framework is based on the premise that theory is constructed purely from data; grounded theory. It is equally as helpful to consider that data analysis is influenced by theory, whereby one can traverse the data and the literature (Skinner 2005). As I was interested in regularity and in what particular events, emotions and feelings were reported I also looked at Bogdan and Biklen (1982), who enhanced and complemented Strauss and Corbin's (1998) framework by presenting 'families of codes' which enabled me to impose a more systematic order on data that navigated time, as in the situation of men considering the experience of serving a MLS. These codes are fairly generic, but can apply to a variety of contexts including settings/context codes, and were therefore compatible to education and work experiences. Respondent perspectives, how respondents think about people, was particularly useful for considering the classifications and assumptions imposed by staff on MLS prisoners, as well as the individual considerations of the prisoner and personal relationship codes covered past, present and future interpersonal relationships. I developed from this perspective a classification tree which incorporated the family of codes (see appendix 9) (there were several other flow diagrams which included the open prison, the community and managing identities in these contexts) For the benefit of the reader, I have translated the classification tree into Table 5.2. The classifications are derived from the main themes produced by the interviews and, in some cases, can be related to previous research literature. It is these themes that produce the data used within the findings chapters. The responses received by the interviewees were grouped by topics from the interview guide.

Table 5.2 Identification Classification Themes

Identity(i)	Prisoner	Co-existing	Intersecting	Lifer
Classifications and reactions (ii)	Rebel, complier, adjuster, denier, deceiver	Denier, deceiver, excuses and justifications	Any or all at specific times	Rebel, complier, adjuster, denier, deceiver
Impact adaptation and coping	Drugs, alcohol. Withdrawal	Drugs alcohol	Drugs, alcohol	Drugs alcohol, institutionalisation, withdrawal
Programmes and Therapy	Compulsory attendance/ selection process	Pretence with integration	Integrating interventions into identity	Compulsory attendance/ selection process
Homogeneity	Homogenous/non homogenous community Offence and sentence	Offence and sentence Deserving or undeserving Ascribing identities	Offence and sentence Deserving or undeserving Ascription of identity	Knowledgeable prisoner, Homogenous/non homogenous community Deserving or undeserving Offence and sentence
Life inside/ life outside	Drugs alcohol Education work and hobbies Withdrawal	Managing identities including spoiled	Integrating interventions into identity Management of identities including spoiled	Drugs alcohol Education work and hobbies Withdrawal Institutionalisation

- (i) There is interaction across the identity categories; for example between prisoner and lifer. Again there is interaction in the case of homogenous and non-homogenous communities of lifer and prisoner and between identities when considering adaptation and coping mechanisms.
- (ii) As dictated by staff assumptions and classifications, as well as previous research findings.

The classification themes outlined in Table 5.2 can be considered in relation to the theories outlined in chapter four. Construction of identities can further be understood in terms of the typologies discussed within chapter three, indicative of the impact of imprisonment. The presentation of the self as proposed by Goffman is dramaturgical. It is based on the front presented and the performance enacted. However, the individual and observers may also accept that an illusion could be projected. The inner person does not necessarily fit the social mask (Watson 1990.) The classifications and reactions of staff to prisoners, and prisoner to prisoner, are based on assumptions supported by perceptions of presenting identities. Presentations are not always ‘cut and dried’. Each person’s experience will differ. Intersectionality considers that individual identities are not separate, prisoner or free person, but intersect, utilising some part of the identity whilst suppressing others. The

Table is illustrative of how I have tried to separate themes that are intertwined. This is just one example of how the coding framework was approached.

The construction of identity, including spoiled identities, became a recurrent theme within all interviews. Within chapter four I considered how the theoretical framework was driven in part by the work of Goffman (1961, 1963); the themes emerging from the interviews were indicative of spoiled identities. In Table 5.2 the 'classifications' ascribed to the prisoners from staff included rebel, complier, adjuster; these were in keeping with sociology of imprisonment literature (see chapters 3 and 4). However, the prisoners' interpretations of such classifications produced evidence of the existence of 'co-existing identities' (see Table 5.2 column 2). For example some men would rebel as a means of coping with imprisonment; a way to preserve autonomy rather than being indicative of their offence or pre-prison identity. Later in the sentence, the suspension of rebellion traversed to deceiver and supported progression. The deceiver then co-existed with the complier and adjuster; he was seen to be embracing prison life. Relinquishing the rebel label in open conditions occurred as the prisoners had no use for the persona. It became redundant. Whilst in open prison, they were trying to fit into the community and, as such had no need to act in ways expected or dominant in closed prison, as will be demonstrated in chapters 6-8.

The interviews highlighted the particular personal and professional difficulties of such work for staff at HMP Shaw, who had no prior experience of working with MLS prisoners in open conditions. The offence and sentence also interacted with deserving and undeserving lifer and the classification box under 'lifer' identity (column 4 Table 5.2). Similarly the concept of justification and excuses as discussed within chapter four are indicative of the perception of the 'sentence and offence' (column 4 Table 5.2). These concepts were used both by the staff and the prisoners when considering the MLS and produced a theme whereby the sentence itself is considered. The Table should not be read as isolated categories or purely linear relationships within categories; there are links that are multi-directional and that cut across categories. I used the initial flow chart (see appendix 9) and subsequently Table 5.2 as an attempt to make sense of the complexity of identity formation in the context of life imprisonment.

5.7 Introducing the MLS prisoners

In order to understand how men experienced life imprisonment any previous experience of imprisonment was an essential consideration. This research does not look at the motivation for murder, or analyse patterns of offending behaviour. However, the nature of the murder will impact upon the prisoner during his sentence and will be used to manage his prison career and subsequent release. A personal profile of each prisoner's previous offending history and experience of imprisonment was undertaken by means of a pre-interview form and has been compiled into Table 5.3. Tables depicting the personal characteristics of the prisoners in relation to how they defined themselves in terms of ethnicity, marital status, family life, educational and work experiences pre and during custody can be found in appendix 10.

Table 5.3 Depicting offending history of prisoners and age at time of interview:

Name	Offending history (Pre MLS)	Previous Custodial sentences	Victim(s) Known to prisoner	Current time served	Number of prisons resided in	Tariff date
Ben age 37	Theft, Deception, Non Domestic Burglary	None	Yes	14 years	5	September 06
Billy age 52	Theft Burglary	6 months 9 months	Yes	23 years	11	1999
Harry age 45	None	None	Yes	22 years	14	1999 Anticipating Feb 07
Samuel age 53	Violence, Robbery and Theft	8 years 5 years	Yes	22 years	13	1999
Joshua age 46	ABH Assaults	6 months	Yes	16 years	12	2003
Alfie age 41	Theft Burglary	12 months 2 and 5 years	Yes	10 years	5	2008
Daniel age 40	Deception, Burglary	None	Yes	16 years	9	Jan 2000
Zachary age 34	Theft	2 years	Yes	11 years	9	2009
Wilf age 59	None	None	Yes	19 years	8	March 2007
Noah age 35	Theft, Burglary	1 year	Yes	15 years	10	March 2003
Leo age 34	Driving	None	Yes	12 years	6	September 2006
Henry age 53	None	None	Yes	15 years	6	June 07
Archie age 60	Robbery	5 years		19 years	7	December 05
Oliver age 40	None	None	No	23 years	7	August 1995 Anticipating 2007
Jack age 38	Burglary	None	No	19 years	10	2004
Joseph age 51	Burglary Theft GBH	Approved School Borstal DC 2 ½ yrs	Yes	28 years	11	1992
Isaac age 61	Theft	Approved School	Yes	12 years MLS 6 yrs recall	3 (2 on recall)	Licence Recall 1999-
Toby age 39	Burglary Theft	None	Yes	20 yrs	10	1996

5.8 Possible Limitations of the Research

Within this chapter I have discussed the research design and method of data collection. I have considered the benefits and difficulties associated with the chosen design. I must make clear the limits of what I have studied; in that the participants were only a small representation of the 294 MLS prisoners in open conditions at the time of this research (see chapters 1, 2 and appendix 10). However, this is the only data on this specific group of prisoners and small numbers of people can provide information rich material and the interviews undertaken in this study were in-depth and highly detailed. The experiences and histories of the participants are worthy of research, informing our current knowledge base, as are autobiographical writings from prisoners (see James 2003, Boyle 1977, McVicar 1974).

As discussed within the introduction and chapter one of this thesis this research is based on the perceptions and experiences of a group of prisoners serving a specific sentence and how this impacts on their identity. However, experiences for long-term prisoners share commonalities as well as differences it may therefore have been beneficial in hindsight to have used a comparison group of DLS prisoners to examine which aspects of life imprisonment and ultimately identity are unique or not to the MLS.⁹⁵

As I stated in the introduction of this thesis as a result of long periods of imprisonment the sense of identity held by the prisoners and their perceptions of others' views of them may reflect attitudes and perceptions that had been much stronger earlier in their sentence and prior to the increased concerns regarding risk in general and sex offenders in particular which have resulted in a rapid growth of indeterminate sentences for a raft of non-homicide offences. Whilst the perceptions the men held may now be as or more relevant to other indeterminate sentence prisoners⁹⁶ the MLS prisoner who has served his sentence with such a sense of identity has had to manage, adjust or reformulate this imposed or perceived identity as he nears release.

In retrospect two interviews may have been useful to elicit the extent to which I may have been subject to participant manipulation. Repeat interviews enable elaboration of context

⁹⁵ This is a future project I am considering developing.

⁹⁶ It is important for the reader to remember that this research predates the introduction of the contentious implementation of the IPP (see chapter 1) which has resulted in prisoners serving longer terms of imprisonment than first envisaged.

and exploration of the implications of what had previously been said (Rubin and Rubin 1995). They also allow time for the respondent to prepare in advance for the following interview and therefore have the potential to be less free flowing and more scripted. As this thesis is concerned with identities it is important to remember that identities change through time, even short spaces of time. The different parts of an individual's identity may come to the fore within the space of a day or a single interview. My interest was in how each individual viewed himself at a particular point in time and how they presented themselves to me, alongside the stories they told about presenting themselves to others. Discovering that the prisoners presented themselves differently in another interview would not invalidate the previous interview although it may have provided additional evidence of the co-existing and intersecting identities in practice. Unfortunately, at the stage of data analysis any re-interviews would not have been possible, as the majority of the men had moved on.

I have within section 5.3 explained why I did not undertake work based observations of the men on placement. Whilst it can be argued that such observations may enhance the discussion pertaining to co-existing and intersecting identities the information gained by interviewing staff from a range of disciplines provided interesting evidence as to how others saw MLS prisoners and how the discourses used by the prisoners were also used by the staff.

*“There is a tunnel and it is just dark...the lights don’t start coming on until the end bit”
(Leo)*

Chapter Six: Open Conditions: New Frontiers Old Boundaries

6.1 Introduction

This chapter considers the present day experiences of the eighteen MLS prisoners and ten staff who took part in this study. Whilst consideration of the here and now predominates, this chapter is not telling a linear story. The narratives also reflect back to previous experiences and hence mark the journey to open conditions. In order to do this, the chapter will subsequently unpack their MLS career.⁹⁷ Throughout this and subsequent chapters the narratives include the terms ‘killer’ and ‘lifer’. However unless otherwise stated, the respondents are only referring to the offence of murder and the MLS⁹⁸. The theme of this chapter is the open prison and how prisoners manage co-existing and intersecting identities in this context. Within the chapter attention will be paid as to how their present identity and set of perceptions have arisen and what factors and influences have formulated these. The chapter will examine how one identity is given favour over another and in what circumstances this occurs. The key arguments put forward are how the expectation of the open prison is contrary to the actual experience and how the preparatory experiences undertaken prior to, and on, arrival indicate the management of co-existing identities. Further to this, the construction of identities as proposed by staff demonstrates how the MLS prisoner is differentiated in terms of the sentence. From this, the concept of spoiled identity can be understood in respect of becoming an intersecting or co-existing identity, or both, and what factors facilitate this. The primary argument pertains to risk assessment and management and how these contribute toward the maintenance of co-existing and intersecting identities. The underlying theme of this chapter is the impact of indeterminacy.

Of the eighteen men interviewed, all had experience of open prison but nine of the men had been recalled to closed prison at some point (see Table 6.1). Four men were interviewed in closed conditions. The experience of open prison is meant to limit and

⁹⁷ The changing populous of the indeterminate prison population is something that MLS prisoners are becoming immersed within. Therefore, although in chapters 6-8 I draw on interview evidence to argue that laws, policies and perceptions indicated to the men that they were a ‘special’ group of prisoner, this context is changing

⁹⁸ This was confirmed during the interviews and as verbatim narratives have been used I have not changed the content of the text.

negate the impact of imprisonment and minimise any harm already caused. It became evident from the interviews that this was not always the case.

Table 6.1 Recall information

Reason for recall
1 – absconded from open - failing to cope (self identified)
1 absconded from open– reason unknown
1 reason unknown
2 alcohol use
1 possession of pornography – return to closed from open prison as index offence sexual in nature possession of material raised concerns
2 returned to closed from open prison as sex offenders and concerns
1 recall for ‘new’ (retrospective) offence

6.2. Arrival at Open Conditions

The closed prison is a highly controlled environment. Prisoners live by timings and events set for them; the culture change when arriving at open conditions is pronounced. As a practitioner working with men approaching transfer to open conditions, it has become apparent to me that they do not comprehend the extreme change in regime, management and free time. The initial experience of the open prison was considered by men in these terms. The shift from being a dependent regulated prisoner to a more self governing prisoner became evident, as were any preconceptions as to what life would be like:

Open conditions ...I was a bit shocked ... I always thought it was hustle and bustle and people going out everyday... it is not like that at all... some people are just stuck on the camp ...it is very depressing and boring ...you are twiddling your thumbs thinking ‘fucking hell it is so boring what can I do?’ You walk around trying to think of something to do and *there is nothing* (Jack)

All of the prisoners indicated that they did not know what to do with their time or how to plan it in the initial stages of arrival: “the afternoon came round ...and then there is nothing particularly for us to do. We are wandering around” (Oliver).

HMP Shaw had no experience of providing activities for MLS prisoners. The regime was designed for short-term prisoners who could be trusted to be out in the community as soon

as possible after arrival. The facilities within the prison included visiting agencies such as representatives from job centres. However, this would be one or two mornings a week via appointment. Educational activities were limited and, having spent many years in prison, little new was on offer to prisoners. From the prisoners' perspective the cost and resource implication of providing additional courses was not tenable:

I wanted to do a GCSE about World War One... I started doing classes here and then a mock exam, I got 99% so I was pleased. But then the classes stopped because I was the only one. It was the cost. So that was it, finished. I would have got that old GCSE for that (Archie)

Prior to undertaking outside activities, and as preparation, every prisoner was expected to 'work' on site. The average basic pay at HMP Shaw was £10; work on the grounds and gardens paid £12 per week three times the average weekly pay in prison⁹⁹. The issue of increasing prisoner pay was vetoed by the Prime Minister in April 2008. The reasoning can be attributed to the economic and financial difficulties occurring within Britain at the time, alongside political damage resulting from the voting public perceiving a decline in punishment. In many cases, the prisoners relied on the use of the gym while trying to find work within the prison - both activities reminiscent of time in closed conditions. Activities undertaken in closed prison provided a welcome respite from being confined to cells. Though helpful to fill their time, they were not designed to prepare for open conditions and release. One of the presenting difficulties for the staff was trying to find things for this particular group of prisoners to do when they arrived at HMP Shaw. They also had to reconcile the fact that these prisoners were different to their short-term population, having specific needs as a result of long-term imprisonment. Occupying the prisoners proved difficult:

...a lot of lifers here say for the first six months nothing goes on and they get frustrated. We have asked the lifers that are already here what they would like to do but they come up with nothing...all they come up with was musical instruments...we spent about £1500 on this and it hasn't been used... (Jonas - Lifer Manager).

At the time of this research there were a small number of MLS prisoners at HMP Shaw¹⁰⁰.

⁹⁹ The pay available to serving prisoners in any institution is on average £4 per week as set out in PSO 4460.

¹⁰⁰ HM Inspectorate of Prisons follow on inspection in 2008 noted the number of lifers had reduced to 12.

In an attempt to 'attract' more MLS prisoners the staff would undertake visits to other prisons, promoting the benefits of HMP Shaw to groups of prisoners. The frustration expressed by Jonas (Lifer Manager) is indicative of the prisoner (and staff) being in limbo when arriving at open prison. Having reached this stage of their MLS career, the prisoner is expecting to progress quickly into the community. Prior to this, he has an expectation that his time will be filled with preparatory experiences and opportunities. The first six months in open prison is the time when the prisoner can begin to consider community life. With vast amounts of time on his hands and little to occupy him, this will also be the time when his previous custodial experiences such as time in therapy and participation on programmes determine his success or failure in open conditions. Jonas (Lifer Manager) indicated that some prisoners were able to recognise their own limitations regarding the move to open prison and received prisoners' concerns positively: "...we got a lifer here ...said look I don't feel as if I am ready for community work yet...ready for release on town visits I want more escorted visits, and we do that."

Working with MLS prisoners presented new challenges to the staff at HMP Shaw. The prisoners will have progressed to open conditions on the basis of positive risk assessment and meeting the tariff. They are expected to adapt and adjust to open conditions in the same way as determinate prisoners. In chapter three I discussed the various ways long-term prisoners adjust and cope with imprisonment; the research was however conducted in closed conditions. My research is focusing on the transition into open conditions from the closed estate and for some recalled on licence from the community. The difficulties facing prisoners on transition are inextricably linked to the length of time spent in custody and the paradoxes faced by men trying to regain a 'quasi-free identity' within the confines of open prison. There is a pressure on prisoners to conform to a new identity when undertaking community and paid work within local communities (see chapter 7). Staff expected prisoners to shed a prisoner identity whilst adjusting to greater freedom and life outside.

There was recognition of the momentous impact of entering an open prison and how some prisoners experiencing the freer regime encountered difficulties:

I have spoken to them and they can go wherever they want (in the prison) ...they are expected to do a lot for themselves...for some it is almost panic attack time... (Hugh – Prison Officer¹⁰¹).

¹⁰¹ All of the Prison Officers interviewed in this study undertook a Personal Officer role with lifers.

For some it is a walk in the park, and for a lot it is petrifying...sex offenders got lots of bullying they haven't been able to cope with the threats, and ask to go back to closed conditions ...they know it is safe. They are not used to *not* having walls or barbed wire (Amanda – Psychologist)

Learning to think and act for oneself is part of self-regulation. The need to maintain the 'invisible barrier' and resist temptation is tested. The prisoner becomes acutely aware of the changes that have taken place within society during his absence as well as considering the relaxed regime of the prison in comparison to closed conditions. The men recognised that they would now need to develop individual responsibility in order to succeed "...you have to take more responsibility for yourself so things are harder in open but at the same time it is beneficial...you are on your way home" (Jack). Likewise, Billy also recognised the need for self responsibility: "...as you progress through the system at the tail end it ...gets harder.... you haven't got a fence or a brick wall...you got an invisible barrier there, so the temptation to go is there. And anyone who doesn't recognise it is fooling themselves."

6.2.1 Policy and Practice within HMP Shaw

When the prisoner arrives at HMP Shaw he is assessed by staff with regard to his risk, attitudes and abilities to engage with professionals and other prisoners. In accordance with Prison Service Order 6300¹⁰² the prisoner can expect to become eligible for release on temporary licence (ROTL¹⁰³) in order to advance his opportunities for community re-entry. It is ultimately the decision of the Governor whether any ROTL occurs. The impact of ROTL will be discussed from the prisoner's perspective within this chapter.

There were three types of licence available to MLS prisoners at HMP Shaw. The first, Resettlement Day Release is considered for activities such as community voluntary work or employment. The second, Resettlement Overnight Release, allows prisoners to spend time at an approved address in order to regain links with a community. This is sometimes referred to as 'home leave' which will be the term used within this chapter. Eight of the men in this study had experienced home leave either from HMP Shaw or other open prisons. Prisoners found the support and reintegration with their family the most significant

¹⁰² PSO 6300 -Release On Temporary Licence.

¹⁰³ Further information regarding ROTL is contained within appendix 12.

impact of home leave: "...getting home leave it is like feeling human again, instead of being a number and a no one...being able to go and visit your family ...and get used to leading a normal life" (Henry).

The decision to allow a prisoner home leave is based on their progress, their attitude and the perceived risk they posed to the public. Recommendations for approval by the Governor are made at Lifer Boards; such decisions can become a burden on the staff:

On a personal note the pressure of not being able to make a mistake... weigh heavily on me, when things go wrong I do lose sleep and wonder if I could have done it differently, it is rare when things go wrong but I work with sex offenders and murderers who have done the worst crimes ...and I wonder how I would feel if it did go wrong (Grant – Prison Officer).

The third type of ROTL is known as a Special Purpose Licence and would be granted in such circumstances as visiting dying relatives or attending a funeral. This is a tense and difficult situation for all concerned. The prisoner has to manage his co-existing identities. In Zachary's narrative he discusses compassionate leave. The dominance of the MLS identity and dehumanisation is evident:

It was weird, they left me chained up. I felt like a dog. They (prison officers) were attitudey; my sister softened them up after a couple of hours. They got a job to do I suppose I can't hold that against them... I felt alienated I didn't feel it was my place to be there, because I had been taken off the street and what I had done, it didn't feel right, it didn't feel comfortable

At the time of the interviews HMP Shaw had revised their ROTL policy on 'town visits' in response to local objections regarding sex offenders and absconding from the prison. Prior to 01st January 2006 the men were taken to town each Saturday morning and collected late afternoon. Toby recalled how he feared repercussions on his first town visit from the local community due to his identity as a sex offender and the negative publicity. His narrative indicates how he managed his co-existing identity:

I got dropped off with the other lifers on the Saturday. One of them showed me around, he is back in Shepton Mallet now, he was one of the original lot (sex offenders)...it was fantastic walking around town with money in my pocket...I felt nervous at one point just walking through town in case somebody saw me and it got released and they found me...so I phoned¹⁰⁴ my support network and they said,

¹⁰⁴ At the time of this research HMP Shaw had introduced the use of mobile phones for all prisoners granted ROTL. The prisoners could put credit on their phones and were not restricted with regard to calls. The rationale being when out they could access public phones. Again this was indicative of the exercise of self responsibility and entwined in assessing and managing risk.

nobody knows you are there so don't worry. It was nice for them to hear me because I was not locked up they could hear the excitement in my voice at being out...it was fantastic ... I loved it

Under the new policy town visits took place only if the prisoner was collected and supervised by a family member. The men were unhappy about the changes and considered the impact on reintegration and resettlement:

...the Home Office in their wisdom stopped it. So people like me with family living so far away who can't get here, it is a step back. The freedom gave you an opportunity to get out into the community and meet people, different people, it's unfair they expect us to get used to people again, then they take it away? (Archie)

6.2.2 Preparatory re-entry experiences

Preparatory re-entry experiences include moving from closed to open prison, the fears and uncertainties related to re-entering the community, and impending release. Within this section I am going to consider the preparatory experiences of the prisoners reflecting back to time in closed conditions. MLS prisoners can apply for an 'escorted absence', or what they commonly refer to as a 'town visit', when they have reached Category C prisons, and are within 12 months of their Parole Board review as well as being within four years of tariff expiry. This experience is intended to help familiarise the prisoner with the community. The visits will only take place after a full risk assessment has been completed¹⁰⁵. The accompanying prison officer(s) observe the prisoner's behaviour and their interaction with members of the public. The prisoner interviews suggest they approach escorted absence with excitement and trepidation. The artificiality of the situation, being in the company of prison officers who they know are 'testing' them, creates pressure to perform as the resulting reports will contribute toward further progression and release: "You know they are always watching you, you can't behave freely because you got these people sitting on your shoulder and you are conscious of that" (Alfie)

The number of officers present on each visit is indicative of the risk the prisoner was seen to pose and the nature of his offence. All of the men in this study had escorted absences in the first instance with two or three officers. Sixteen men had previous experience of escorted absence. Two had this experience for the first time whilst at HMP Shaw. The men

¹⁰⁵PSO 4700 11.8.2 - further states that areas of concern or offending behaviour have been addressed, the lifer has been deemed to be of good character and victim charter issues have been considered. Prison and probation staff and where necessary the police need to support the application.

who had previously experienced escorted absences recounted the event as one that increased their confidence; it was a reminder of maintaining hope in what was otherwise a hopeless situation. "...Even though it was 11 years, it was like I had been out the day before" (Zachary). This reaction was not shared by all the men:

... we went to [City] for the day I had £53.10... but I felt like a multi-millionaire. It was great... We went to this place called Starbucks for a cup of coffee, I had never heard of it before. So I got us two coffees and I said how much? She said £4.50 [laughs] Blimey that was a shock...the prices was sky high. (Archie)

All of them claimed that they re-adapted quickly to the situation, expectation and environment. The narrative below offers some alternative views by staff:

I took Mr X to the [City]... He spent the £100 in an hour and a quarter. So I said to him what are you going to do for lunch now then? He said I don't want lunch, I said ...you can't have lunch even if you want to because you have spent all your money. ... you are not going to be able to buy that when you get released... they should be taught budgeting and all the basics that we usually get taught...as we go through life... this particular person was in prison when he was 18. (Hugh – Prison Officer)

Hugh has not acknowledged that the prisoner may have just been celebrating his freedom and expressing a free identity through consumption which had been suppressed for many years. Hugh's concerns would form the basis of his report and indicate what areas he perceived would be problematic for this particular prisoner, possibly resulting in a delay in progression.

Oliver's first escorted absence was in HMP Shaw. He found the experience overwhelming. His narrative is indicative of how he retained the feeling of being a prisoner: "...I am looking back all the time over my shoulder to see where they are, to make sure that they are still in sight, to make sure they can still see me and that I haven't run off... It felt unsettling".

The previous sections have considered the opportunities and experiences the men had either at or prior to arrival at HMP Shaw as part of the initial preparatory re-entry experience, designed to assess, equip and support men in their eventual re-integration process. At the time of this research HMP Shaw was embarking on transforming the gatehouses into 'semi independent' living space for lifers undertaking community work

and progressing positively toward release¹⁰⁶. The model followed was similar to PRES¹⁰⁷ schemes once undertaken by larger prisons. The men would be expected to budget, maintain and control their 'home environment' whilst managing risk factors such as drugs or alcohol without the supervision of staff. The move was received with mixed feelings by staff. The need to prepare men for more independent and less monitored lifestyles pre-release was seen as positive. However, they recognized the 'falseness' of the situation because the houses would be subjected to prison searches and regulations: "it is a good thing, but at the end of the day you are still in prison and all that consists of" (Billy). This chapter has so far considered policy and practice within HMP Shaw. The discussions that follow will consider how the staff and prisoners consider and explain identities.

6.3 Constructing Identities

The staff interviewed at HMP Shaw had no prior experience of working with MLS prisoners in open conditions. This section will consider how they constructed identities for the men and how these were rejected or emulated by the men. Asking the question 'who is the mandatory lifer' did not elicit an immediate or an expected response from any staff; they were reticent to stereotype or feed into any media myth such as 'evil' 'bad' or 'mad'. Nevertheless, it appeared easier to deal with the MLS prisoner as a 'sentence' in the first instance. Locating the MLS prisoner as the 'sentence' lent itself to looking in more detail at the MLS prisoner *through* the sentence. The nature of the offence distinguishes who the MLS prisoner is and how he is perceived by staff. Using this framework the analysis becomes more themed and classifications were implicit in staff perceptions. The concept of the 'deserving and undeserving' lifer emerged. The deserving and undeserving lifer concept ties in with legal tariff setting as examined within chapter one. The deserving lifer was akin to an instrumental offender whereby his offence is characterised by the calculation and level of planning. It is generally accepted (see Christianson et al 2007) that this type of offender shows little guilt and incorporates multiple killers and sex offenders in particular; the offence is also indicative of their lifestyle. From a positivist criminological perspective, the instrumental offender can be likened to the rational choice actor. He is a rational free willed individual whose involvement in crime is calculated (Garland 1997). The undeserving lifer is an expressive offender (see Christianson et al

¹⁰⁶ By the time HM Inspectorates follow on inspection 2008 took place five of the 12 lifers were living in this facility.

¹⁰⁷ Pre Release Employment Schemes - PRES hostels/ wings are no longer in existence.

2007). These offences are spontaneous, unplanned and usually committed as a reaction to situations:

Some lifers, they might have ...punched someone, he fell awkwardly banged his head and died. Well being realistic when I was younger if someone grabbed my girlfriend I could quite easily have punched him, do you see what I mean? Then some lifers, they planned it and everything and that is a different ball game. ..(Hugh- Prison Officer).

In the first case Hugh is speaking as a 'layman' offering justification for the offence and seeking ways to rationalise and excuse what has happened. In the second part he offers no justification. Hugh's analysis was not unique and was confirmed by the majority of staff interviewed. The Law Commission review 2006 with a focus on redefining murder and sentencing is intended to add legal clarity to the distinctions raised above. The prisoners accounts of deserving and undeserving in terms of justice for the sentence are discussed within chapter eight.

6.3.1. Murderers: Ordinary and Extraordinary Spoiled Identities

The undeserving lifer falls into the category of the 'ordinary' murderer whilst the deserving lifer can be situated within the criminal category in general and in particular 'extraordinary' when discussing sex offender MLS prisoners. The narratives of prison officers provide evidence:

the husband who murdered his wife for whatever reason, probably... never been in trouble with the police in his life... he snapped¹⁰⁸... the serious sex offender *what is he thinking what is he doing, in my mind ...he's not going to stop he hasn't in the past and I think with all the courses that we put on there is that little bit of doubt there in the back of my mind...it is an urge, how do you suppress an urge?* (Andrew- Prison Officer his emphasis).

Some staff interviews indicated that the prisoners themselves bought into these distinctions as a means of separating themselves from each other: "I had a wife murderer...he would say 'I'm not like *these* others, they are still into doing things and are violent, *that is not me*'" (Jonas – Lifer Manager his emphasis).

Differentiating prisoners in accordance with the type of offence committed is a common feature of prison life not only with staff but also prisoners, in the form of prisoner hierarchies. In doing so they are conforming to spoiled identities. Sex offenders were

¹⁰⁸ An interesting comparison here is the gendering of violence, some violence being 'acceptable'. This is also linked to the defence of manslaughter, a woman may be seen to premeditate out of necessity.

perceived to be the worst type of prisoner, categorised into specific types. Those offending against children rating the lowest: “I do try and avoid sex offenders, paedophiles, child molesters, *anything like that*, as *we* call them; wrong uns” (Daniel). In using such typologies, the prisoner is creating an acceptability for himself in terms of his own offence; a more acceptable offending identity together with a means of rationalising and coping with imprisonment: “I am not a woman killer and I am not a child molester so in *prison politics* I would be seen as ok” (Sam).

Prisoners who had undertaken therapeutic interventions (see chapter 7) considered the difficulty prisoner hierarchies presented when the ethos of the situation dictated acceptance of the crime and the perpetrator: “you was dealing with people, sitting near people and listening to people that you hate. You despise some people’s crimes. *You were all at the same level and that was the hardest part, child murderers, child rape...*” [Silence] (Zachary his emphasis)

Sex offenders arriving at HMP Shaw were identified through the policy in place; this being attendance firstly at HMP Blaine undergoing assessment and courses. How the prisoner dealt with the situation depended on his previous prison experiences, including co-existing identities such as a ‘therapeutic identity’. The men were aware of how sex offender murderers were viewed within the prison and outside community and in some cases were able to forefront the spoiled identity:

I was down there (officers’ mess) and one of them said to me, moving them animals up here like that. Scum bags and killers...one of the civvy workers said to me I can’t work out why they brought them sex offenders up here, it is ridiculous ...they are asking for trouble...I said to him, you know who you are talking about don’t you and he said no. I said well I am one of these people (Toby)

Oliver evidences the use of a therapeutic identity when recounting his first experience of disclosing his offence to other prisoners at HMP Shaw:

I believe it is *assumed* that some of the offences are the *worst* of the sex offences, *not that any offence is worse than any other...*but that is the way they are seen... When I was first here I was a dining room cleaner, and stuff gets chucked on what I have already cleaned. Comments made, half overheard... some guys asked me what I was in for and where I had come from, I was straight with them. *I didn’t go into any detail...* I have come up from down below, they had me there to attend a course, I am in for murder it was a young woman ...They weren’t immediately my best friends, but things did seem to shift. It was like; *we don’t like it, but fair enough* (his emphasis)

Oliver's narrative is indicative of the action taken by prisoners in adopting the hierarchy, the overt behaviour and use of language to indicate the spoiled identity. In his attempt to forefront his spoiled identity, Oliver's therapeutic identity is intersecting with his sex offender and MLS identity in order to enable him to be honest but not too detailed.

In considering further the impact of being a sex offender, Jack's narrative reflects how attributing a spoiled identity to others, is a means of protecting himself, and his family whilst at the same time acknowledging the seriousness and impact of his own offence. Jack is speaking from the confines of HMP Blaine. He has returned to an environment where he is forced to acknowledge the identity of sex offender in a prison designated for such offenders:

...it is nothing personal against the *sort of inmate*, it is just my views, because... I have killed a woman I have attacked a child and I feel a lot of disgust and hatred for myself for what I have done...I never thought it would be possible that I would commit the crimes I have committed [sighs] I don't like myself [long pause] and I know *my people wouldn't want to be around these kind of people* (Jack his emphasis).

The separation of prisoners into a typology of lifers was elucidated from the interviews and is part of the construction of the MLS. Staff constructed the MLS prisoner based on prior knowledge and experience of working in closed conditions, and most specifically around the type of offence committed. The ensuing section will consider in further detail the typology of the MLS prisoner from the perspectives and assumptions of the staff and how the prisoners accept, explain and consider these typologies.

6.3.2 Prisoner Typologies

The MLS prisoner in open conditions was defined by staff as being fully aware of his rights and often had more experience of the prison system than they did. Thus the 'knowledgeable prisoner' emerged. For some staff this knowledge posed a challenge by highlighting their own lack of knowledge: "I used to work in Belmarsh¹⁰⁹ before coming here, I think with lifers because they've been in the system they are quite 'wise' with what they can have, do, rules and regulations. That can be quite challenging" (Hugh – Prison Officer). "You have to be on the ball because they know the rule book inside out I myself am always clear with them if I don't know something, I let them know" (Grace – PSO).

¹⁰⁹ HMP Belmarsh – Category A - high security prison in London.

▪ ▽

Deniers
Deceivers
Adjusters
Rebels

lip service to it...” (Grace – PSO). The interviews produced evidence of a point in time when men felt they needed to reconstruct their identity. The lifer and prisoner identity needed to be re-configured in order to facilitate movement through the system and develop and confirm a more acceptable personal identity. The notion of co-existing identities takes shape here. At times there is conflict of identities in the sense that the prisoner is living within the confines of an identity he has created in order to make his journey through the MLS more comfortable. However, for some, the more the identity is reconstructed to meet the presenting need the farther away release can become and the propensity for sideways moves within the prison system, particularly if he is seen to be a denier or deceiver and in need of further courses or therapy. From a dramaturgical perspective the men presented evidence of ‘backstage’ behaviour (Goffman 1959) whereby the fabrication of events and the collapsing of repertoires and actions compound the maintenance of co-existing identities. Ben’s account is an example of how the co-existing identity can no longer be maintained and it collapses into an intersecting identity:

... when I was in closed conditions I couldn’t go on with the lies... with the pretence that I had been abused as a child as I had told them, not a great deal that I told them made a whole lot of sense really, I wanted people to believe something I never told anyone the truth ... I took a man’s life and used the excuse that I had been abused, how low is that? I was stressing out more and more at Channings all the lies and ghosts were coming back to haunt me day and night (Ben)

The monitoring and surveillance of prisoners is reliant upon the staff’s integrity and ability to assess situations and people. There was understanding that some prisoners may not be genuine and attempt to portray attitudes or identities conducive to progression: “Some you can see are playing a game or giving you the reactions they think that you would find acceptable. Obviously there is assessments that check for this” (Amanda - Psychology). Joseph considered the impact and accuracy of such assessments: “...sometimes the head games get to you like all the psychological. Everybody having their input ...and you think that is not really me. Maybe they are getting close, but not quite like it” (see chapter 7).

The potential for being deceived was considered by staff. They made decisions based on their professional judgement on the risk prisoners posed. The prisoner is informed of what he needs to do to change and how to demonstrate these skills within open prison. It can be seen as a staged performance and representative of managing co-existing identities:

...I wouldn’t say all of them, but yes some of them are very good actors. Well if they have been in prison for 15years they had time to perfect their act really. I am

not saying they would kill again but I think if you got a short temper you don't suddenly lose that ... (Hugh - Prison Officer)

It is impossible to know who and what is genuine in any situation. Who and how we identify ourselves will be dependant on our environment and circumstances at any given time and will be interpreted subjectively by the recipients of the information. There are times when the classifications ascribed to prisoners from previous research, and indicative in staff interviews, have cross cutting tendencies when considered from the perspective of the men. One example of these is the 'rebel'.

Using strategies of rebellion and acting skills to cope and survive imprisonment was identified by staff as a means depicted to them by prisoners who believed the resulting 'change' was evidence of the 'success' of imprisonment and progression through the system:

I asked them why they were like that (rebels) they said when you come up to finishing your tariff...there will be such a dramatic change that it will look like everything you done throughout your sentence - things have gradually been getting better and you have progressed (Hugh – Prison Officer).

From the prisoners' perspective this perception was confirmed. "...I was told by the person (another prisoner) to be as uncooperative as possible...and then taper it down; they pick up on that. So this is what I done, I caused as much trouble as I could when I started me sentence. I had nothing to lose at the time..." (Isaac)

Three prisoners confirmed that they actively rebelled in closed conditions. Such behaviour was a means for some of adaptation to the system and developing some form of autonomy in their lives, which were otherwise controlled and regulated by others. Presenting opposition to the system resulted in further punishment such as segregation. Toch (1977) notes that what observers consider harmful attributes of imprisonment are not necessarily the case for the incarcerated. Sam, for example, was not daunted by segregation, claiming it: "allowed time for reflection", time to reflect on the enormity of the crime and the sentence. Twenty-three hours of cellular confinement is considered by most observers inhumane and deleterious. However, such assumptions should not be imposed on men like Sam, as this detracts from the meaning of *their* experience. Sam found that he could adjust well to confined imprisonment and, like many lifers, used this experience to construct an identity. Sam found the experience of open prison less easy to deal with: "...You knew

where you were with the old system, them and us, I don't talk to staff I am still *anti*, no one has ever asked me that, but if they had, yeah I am" (his emphasis). Being able to relate to and converse with staff is part of the experience of open prison and is a determinant of being able to function as a quasi-free person; any deficiency is viewed negatively and contributes toward continued incarceration.

Displays of non-conformity to the system can be considered in terms of importation theory (see chapter 3). Previous life experiences and social and cultural background provide the framework through which the prisoner perceives and experiences his imprisonment. Experiences such as being in care, the army or previous custodial sentences are incorporated into the prisoner and lifer identity and help him to cope with his imprisonment forming his strategic pathway. In some cases the prisoner identity provided the men with an opportunity to impart the realities of imprisonment:

I used to do these road shows with the officers, going into schools ...to frighten kids not to come into prison. I had to give them this look and say this is how prisoners will look at you...how you must look at them...It is a defence mechanism, they will target you inside if you are seen to be weak. So you put a distance between you... Everybody is looking at somebody else... I suppose by the way I look I scared them. (Ben)¹¹⁰

For some prisoners imprisonment has to be confronted. In line with findings from Richards (1978) Sapsford (1983) and Flanagan (1979, 1991), this type of prisoner emerged from the narratives as one who wanted to knuckle down to the sentence and the system: "you get some who are aggressive and well over tariff, you get others who are amenable and just want to do their time and get out" (Grace-PSO). The adjuster is therefore a co-operative prisoner; the type that is easy to manage and held more favourably by staff. Henry is illustrative of this: "... one officer said to me once, why haven't you ever kicked off – and I turned round to him and said it is simple, your gang is bigger than mine". He in turn fares better in the system as a result of how he is viewed (see Crewe 2006). The adjuster could ultimately be using a strategy of compliance that enables a positive identity more suited to the authorities than him. The adjuster and the deceiver can be one and the same.

¹¹⁰ Ben was adorned with pre prison and prison made tattoos, he had a shaved head and was a stereotypical image of prisoners portrayed by the medium of film.

The final typology elucidated from staff interviews are the deniers. The denier can be considered in terms of his role in and his denial of the offence (see chapter 8). Oliver's narrative demonstrates how he considered a spoiled identity too difficult to comprehend:

I was in denial about what I had actually done and I had a lot of cognitive distortions in place about how things happened and what I had done and why...it took me a long time to get to the point where ...I could actually start to admit what I had done to this young woman...even after I accepted what I had done and was able to talk about it there was a lot of stuff about dismantling why it happened

Oliver speaks through the language of therapy. He dissociates, then re-associates himself from Oliver the murderer, and reconstructs himself through a therapeutic and therefore more acceptable identity; one that is accepted and analysed as a result of therapy.

For some prisoners, denying was a way of protecting family and friends from the heinous nature of the offence (see Christianson et al 2007) and an attempt to retain a pre-prison identity that is 'unspoiled' in the context of the offence of murder: "some have a lot of pressure from family or partners not wanting to believe (the crime) or to admit to their offending, they've got a lot to lose if they have family support" (Amanda – Psychologist).

The impact of indeterminacy can be considered in the ways the men coped with their imprisonment and actions they took in response to their situation, all of which contribute toward a prisoner identity. The typologies discussed are interlinked with coping mechanisms. Such mechanisms include the use of drugs and alcohol.

6.3.4. Drugs, Alcohol and Identity

The availability of drugs and alcohol in open prison is widespread¹¹¹ and, despite attempts to control usage by mandatory drug testing, access to illegal substances is a temptation that prisoners have to resist or hide in order to maintain their progress toward release. There were key ways in which drugs and alcohol played a part in the identities of the prisoners. For some men the identity was a continuation of an existing identity. Others used substances as a means of escaping from boredom. In some cases, substances were used as an escape from the spoiled identity, and for some an escape from the pressure of open

¹¹¹ HM Inspectorate of Prison 2008 noted that at HMP Shaw the primary security issues were alcohol and drugs. The practice of automatic suspension of ROTL following positive mandatory drug testing as was the case for the men in this study, had, by 2008 been replaced by determining ROTL on separate risk assessments.

prison. For others, substances were an instrumental temptation of 'normal life' from which they had been excluded. These categories could be interlinked in some cases.

Alleviating the pains and deprivations of imprisonment and the impact of indeterminacy often resorts in the use of illegal substances. Eleven men admitted to the use of such substances which in part, contributed toward their identity as a prisoner but also an identity based on their pre-prison life:

I was classed as the worst poly drug user the prison service had ever seen, I had been using drugs since I was 14. I wore this as a badge, a sense of pride. It established me in some way... It was an exterior I had created for people to see, it was an extension of what I was on the outside...(Ben).

For six other men, drugs became part of their prison identity. Seven of the men had not resorted to drug use during their MLS. Using drugs in the early stages of the MLS was a means of escaping from the reality of the crime and sentence: "...cannabis...killed the sentence for me, I wouldn't be able to sit here and speak to you today like this if it hadn't been for that, it brought me out of myself. The officers turned a blind eye before the compulsory testing" (Joshua). Turning a 'blind eye' could have been a means of managing the prisoner, fostering compliance and creating a category of prisoner as a result of staff behaviour, or simply acknowledging the impact of indeterminacy. Compulsory drug testing, when introduced, had an undesirable impact for some. Rather than preventing drug use, men would resort to harder less easily detectable substances. "When they brought in drug testing it was harder to use cannabis, so heroin became the drug of choice" (Ben). Daniel and Sam corroborated this view: "...heroin that is the worst thing that has happened and the prison service have done that. I have seen people that have not touched drugs in their life go into prison and gone out heroin addicts...I have seen it, done it. They can't tell me it don't happen" (Daniel). Sam confirmed he had experimented with drugs prior to his imprisonment and confirmed Daniel's assertions: "...I only got involved with heroin when I came in, during the most desperate part of my sentence. I used heroin as a form of escapism...*I still use it now...*" (Sam - his emphasis). However, Alfie, for example, stated he was able to resist the temptations of drugs at HMP Shaw: "...This place is full of them, people openly offer you, I just say no thanks, I got too much to lose, look at how many years I have been in institutions of one form or another in my life, I just want to get out, what little life I have got left I want to spend it out there..."

In contrast, the impact of open prison and the new found responsibility, freedom, and managing a quasi-free identity can be too much for prisoners to comprehend. In such cases they turn to drugs for solace. The narratives below demonstrate that closed prison is a place of safety for these men. Their actions knowingly extended their time in closed conditions and contradicts Wheeler's (1961) assumption that as men near release they return to pro-social behaviour. Both Daniel and Sam deliberately used drugs to rectify, by return to closed conditions, what they saw as an untenable situation:

No I couldn't cope with it, so I got shipped out the first time I got into drugs, cannabis, trying to calm meself down...it made me worse. When I got shipped out of Leyhill to Gloucester it was a *big relief and then I had to go back and that is when I started heroin...never touched it before all the time I had been in prison* (Daniel his emphasis)

Sam: I got heavily into drugs so I walked out...it weren't about me escaping, it was about getting away from the situation...I view it as a sensible move...getting out of where I was

J: Did you do this to go back to closed?

Sam: Yes I suppose I did

Other prisoners found the use of drugs the result of peer pressure and the difficulty of maintaining a quasi-free identity, working out yet living in prison. The difficulty of maintaining co-existing identities becomes compromised and the resulting pressure is evidenced in Harry's narrative; his decision to abscond enabled him, for a short time, to manage the dominant identity of MLS prisoner:

...I had used a lot of cannabis... I thought I got nothing to lose so myself and another inmate absconded from Leyhill... I know this sounds weird, but I thought it is humiliating enough having handcuffs and being removed from open...so I removed myself...*I got a semblance of thinking I am in control of my own destiny for a while... I came to realise that I am making things dramatically worse...I went into a local garage and explained to them ...they said oh yes we heard about you on the radio, so I got them to phone the police an waited till they came to pick me up.* (his emphasis)

Managing co-existing identities from open prison manifests particular difficulties for the prisoner when faced with experiences that are taken for granted in the community. The temptations facing the prisoner are hard to manage in these circumstances and their behaviour can result in further periods of imprisonment. Exposure to temptation, and how this becomes exacerbated in open conditions, where the falseness of the environment becomes all the more apparent, was considered by the staff:

...the time of year (Christmas) ...it is a temptation but our lifers are pretty good... we had one who failed, he was tested¹¹² and four times over the drink drive limit...it makes me wonder...do they really want to get out?...people who had done over 20 odd years inside prison just seemed like a way of life to him. He's gone back to closed now (Jonas - Lifer Manager)

A prisoner who had served over 20 years would not necessarily be aware of the changes in laws and attitudes toward drink driving that prevail today. His failing is as much a part of his disrupted life-course as seeing prison as a way of life. Although not an illegal substance in the community, alcohol is forbidden in prison. It also played a part in the coping mechanisms of men in the early stages of imprisonment as a form of escapism. All of the prisoners claimed that they either made or drank hooch¹¹³ as a means of obliterating the sentence and crime as well as rebelling and forming some camaraderie with other lifers. Alcohol was also a part of their failure in open conditions¹¹⁴ as well as some individuals' pre-prison identity. Daniel described himself as an alcoholic prior to his imprisonment: "I could be dead because I was a bad alcoholic [silence] when I committed the crime; I was absolutely steaming"

On entry to the community, risk becomes heightened regarding access to drugs and alcohol. The prisoners confirmed the difficulties they had faced in these situations in particular with access to alcohol. "I got brought back in for drinking. I could have got really drunk because I had £75 on me. All I had was two pints. I was thinking straight although I had breached me licence. *You think you are free out there but you aren't*" (Daniel his emphasis). Harry had a similar experience and demonstrates how his quasi-freedom was compromised by his MLS status:

I came back from college drunk, so they sent me to Shepton for a 28-day lie down. Then the LMU¹¹⁵ got involved so ...got transferred to Channings Wood...well not making excuses I had just passed my exam and one of the lads was coming back from home leave and we arranged to meet up. I just drunk too much and made a total idiot of myself (Harry)

¹¹² HMP Shaw was using random breathalyser testing at the time of this research in line with the recommendations of the 1996 internal review of open prisons.

¹¹³ A potent brew made from any yeast extracts that are fermented, or any food matter such as shredded wheat and orange juice that can be fermented and brewed. The effect from drinking such brews is similar to that of using actual alcohol.

¹¹⁴ The use of alcohol in open prisons continues to be problematic. HM Chief Inspector of Prisons' report on HMP Ford (May 2009) acknowledged the culture of binge drinking and the significant problems alcohol was causing in terms of prisoner safety, security and management.

¹¹⁵ Lifer Management Unit.

The men found the ensuing punishments received for drinking difficult to comprehend. The punitive element made little sense to them and the risk they posed on release regarding alcohol was evidenced in Billy's narrative:

Billy:...I had a drink, I shouldn't have. I didn't commit any further offences. I wasn't even late back to the hostel...it cost me three years. At my oral the judge was on about my drink and I said to him, excuse me judge, but if I was outside and presented to you in court for say being drunk and disorderly, would I get three years for it? ...I broke no law but it was tantamount to a three-year sentence, do you think that was fair?

J: Has that experience helped you to be stronger with alcohol next time you are out?

Billy:...If I were to put my hand and heart and say I would never touch alcohol when I get out I would be lying....when I am drinking I am a different person, I know that, I am like Jekyll and Hyde...

The men in the above narratives all committed their murder whilst under the influence of alcohol. Participation on course work and managing their risk were negated when they experienced life outside. Access to alcohol in the community will be problematic for them and will result in further recalls if they cannot refrain or manage their co-existing and intersecting identities; a necessary part of risk management. The staff interviewed made no reference to drug or alcohol use in terms of managing risk; perhaps indicative of 'turning a blind eye' or inability to manage and assess risk. The following section will examine risk assessment and decision-making.

6.4 Approaching Risk Assessment

There is an assumption that once the prisoner reaches open conditions his level of risk is minimal. The Parole Board, who make the decision to transfer prisoners, do so on the evidence of the professionals involved and are reliant upon honesty and accuracy, both of which are subjective. During interviews with staff, risk and danger became highly visible concepts which caused concern. All wanted to assess risk accurately and considered public protection. Kemshall (2007:207) identifies a number of threats to effective risk management including conflicts of value base and professional ideologies. Risk perceptions can be deployed in accordance with a worker's value base and strategically deployed to avoid agency or personal blame and reproach regarding negative outcomes

(Kemshall 1998). During the interviews it became evident that professional divergence was occurring as a result of cultural and organisational ethos.

Harris et al (2004) note that the more open and transparent risk assessment is, the more likely the prisoner will constructively engage. Staff at HMP Shaw aim to risk assess with the full knowledge and understanding of the prisoner: "... We are quite open with them (prisoners) about it, we tell them what needs to be addressed, what offending behaviour issues are still outstanding...they are aware of what is expected of them and the risk they pose to the public" (John – Senior Manager).

The importance of risk assessment in open conditions concerns itself more with impending release and re-entry into the community. Public safety is therefore the over-riding consideration. The problematic nature of defining dangerousness (see chapter 2) is exacerbated by media coverage, which has a tendency to concentrate on high profile cases each year, creating an atmosphere of fear. The prison had experienced many difficulties with regard to appeasing the public whose disquiet with regard to the 'type'¹¹⁶ of prisoner residing at HMP Shaw had heightened:

We had petitions from the public, TV, newspapers, local action groups emerging complaining about sex offenders being here... Staff had been publicly humiliated and abused in the town for working with these people. We tried to be open and honest and made it perfectly clear that we were not - *not* safe... we cannot guarantee no escapes but no one comes here to us unless they have been fully risk assessed and undertaken the appropriate courses (John – Senior Manager)

The words of John (Senior Manager) are in contradiction to those of Jonas (Lifer Manager) and Amanda (Psychologist), who indicated prisoners are progressed through the system when they are difficult, or are adept at the 'playing the game'. From a daily managerial perspective John is removed from interaction with the prisoner, yet he is the face of the prison in terms of appeasing the public and offering reassurance over protection. The professionals have to determine how to balance taking risks without creating risks - perhaps an impossible task.

The men in this study had considered their own personal situations and the precarious position they were in as a result of absconds:

¹¹⁶ MLS sex offenders in particular.

...they have affected me enormously. I am sat here waiting for a resolution to my situation. I look at the prison staff and think how incompetent. An inmate had gone from here to Shaw, within a day or two got himself into trouble, drugs, heroin, ended up doing a runner, it turned out he was a bit of a bad paedophile. The case was splashed all over the papers and me and a lot of other lifers turned up there (Shaw) on the back of that (Jack)

Jack attributes the blame for the situation at HMP Shaw to the staff. He is aware that his own circumstances would be scrutinised more as a result of the absconding. He is not apportioning any blame to prisoners who absconded and thus put other prisoners at risk of continued detention.

Following a Foucauldian discourse, Peelo et al (2004:258) refer to newspapers as being the 'new public scaffold'. In the case of men at HMP Shaw the press provided a narrative based solely on the discourse of risk and danger. They personified the prisoner as an 'other' and fuelled concerns within a local community which had little knowledge or experience of the prisoner, other than that depicted in the press. The depictions were based only on the original offence and failed to recognise the possible progression made by prisoners. Prisoners under such circumstances become a bargaining tool in politically motivated and driven agendas on imprisonment, resulting in an undermining of the ethos and function of open establishments. Peelo et al (2004) consider the results occurring in the press as politicising and encouraging populist policy making. Absconding from prison and MLS prisoners working within the community at HMP Shaw typify this statement. During the time I conducted my research, absconds from the prison continued to receive unwelcome publicity, which called for a halt on the admission of any further MLS prisoners at HMP Shaw. Three prisoners in this research failed to return to the prison after home leave and working out.

6.4.1 Decision Making: Public Safety and Personal Responsibility

Decisions regarding prisoners' risk are based on joint assessments from the professionals involved. They made it very clear to me that they approached the subject with openness and honesty with the prisoners. They were looking for evidence of change¹¹⁷ within the prisoner (see chapters 2, 7) - even those considered low risk from the onset of their

¹¹⁷ Based on case file records, behaviour and attitude throughout the custodial period, attitude toward the offence, progression made on courses and/or therapy.

sentence. Change from how the prisoner was in the early part of his sentence, and change whilst at open prison. They were looking for proof and evidence that he is able to relinquish a prisoner identity and become safe to re-enter society:

...I am always honest enough to say that I have got concerns regarding... your lack of remorse or ...you came to Cat D and you are still blaming the victim for the offence. So I do try and be honest with them, they know where we are coming from (Grace – PSO).

... say we thought that the prisoner needed more 1-1 with psychology on a certain aspect...we tell the prisoner at the board...look you need to do that...so that he would have the opportunity to progress once that ...was done” (Jonas – Lifer Manager).

Dobash et al (2004) highlighted how agencies concentrate efforts on recording observations and information throughout the sentence to ensure prisoners are safe to release. The ramifications of such voluminous documents can work in reverse, as the right of the prisoner to move on from his past is never allowed, either in custody or the community. The matter of ‘overkill’¹¹⁸ becomes a consideration when discussing risk and release. The dossiers of men in this study indicated that ‘overkill’ had taken place in a majority of the cases, making an original plea of ‘not guilty’ (see chapter 8) incredulous from the onset; coupled with this was the lack of remorse shown at the time of the offence and the early stages of the MLS. It is questionable how the professional can assess with confidence when a man is safe for release when he or she is carrying the knowledge of the actuality of the murder yet, is unable to make any decision without this information.

Risk according to Arnott has been held as an object of ‘intellectual intuition’. It is not something that can be objectively determined:

There remains something very ‘un-legal’ about the process of risk assessment and there is often bewilderment that lengthy periods of imprisonment are consequent on expressions of what amounts to be ‘mere opinion’ including a wide range of reports from non experts (Arnott 2007:174)

Prison officers acknowledged the difficulties of working with lack of evidence and how this impacted on the personal (unofficial) versus professional (official) dichotomy:

...I’ve got to write reports and my reports influence or help to provide the Parole Board with the information they need to decide whether this prisoner is going to be released. I don’t want to make any mistakes...you have to make your judgement on *what you hear not what you see*... if we were given the resources we could make these reports ...more accurate (Jonas – Lifer Manager)

¹¹⁸ Inflicting more than one fatal blow or wound to the victim to cause death.

6.4.2. Disparity among Professionals

Divergence among staff was evident when the prisoner adopted an identity for the benefit of progression. According to some staff prisoners put on a 'mask' in order to appear in control of situations and not display any anxiety when being assessed for risk and ultimately release: "...they tell me that they were really scared to bits by it all (the town visit) but didn't want the prison officer to see that as it might go against them. The prison officer then reports back positively on the outing" (Grace – PSO).

This could be interpreted as part of the 'real man' image (see chapter 3) where the prisoner maintains face via a traditional masculine identity with the male prison officer, but feels able to discuss more sensitive issues with a female, regardless of her involvement in the assessment process (see also Richards 1978). Disparity amongst staff was not an uncommon feature during interviews; evidence emerged of divergence between professions regarding decision-making. Some staff inferred that scapegoats were being used to deflect decisions and to keep prisoners on side:

most of them ...concerned with lifers, they don't want to be seen to be the baddies and say no to people so they always say, oh it is psychology who said you need to do more work, and probation have said because of victim issues you can't go there, so it is always deflecting from them, we want you to go out, but they said no (Grace – PSO).

we might think someone is suitable and spend a while...getting a suitable community placement and when we go to the risk assessment board probation ...or psychology may come up with some concerns...so we have to go with it (Jonas-Lifer Manager).

No one wants to be associated with making the 'wrong' decision as discussed in section 6.2.1. Concerns about '*getting it wrong*' weighed heavily particularly with prison officers: "if it goes wrong you do feel... why didn't I see that would happen?" obviously you can't predict the future" (Jonas – Lifer Manager).

'Getting it wrong' could also be seen in the sense of professional divergence and lack of training (see chapter 8). Each worker comes with their own value and skill base and within HMP Shaw it was apparent that an eclectic approach based on respect and generalised knowledge was lacking: "the inmates here can be very manipulative...it is the officer's lack of knowledge of how manipulative these men can be...we get told we (probation) are

over cautious but I would rather be overcautious than create another victim...” (Grace - PSO).

Grace’s concerns were shared by the prisoners when they considered risk and their impending re-entry into the community: “There are some very serious offences, mine included. There cannot be any doubt. People have to be sure of where I am and where I am coming from before they can move on” (Oliver). Billy’s narrative is indicative of how he considers his own stability and how his identity is fully integrated as there is no pretence. The prospect of continued imprisonment poses no problem:

...if you aren’t mentally prepared from the onset of living in the community then you ain’t ready to go out. And if you feel you are still a danger or a bit wobbly in the head, then you got no right to go out there because you are putting yourself... and... the public on the line...I have said to these people *if I feel I am not ready to go out I am not bloody going and I don’t give a damn what you say...if I don’t feel I am safe or secure in my own mind or I perceive I might still be dangerous I am not going anywhere... I am not putting anyone at risk, least of all myself (his emphasis)*

The prisoner’s ability to shed the MLS identity and risk were always at the forefront of staff’s thoughts. The thought of re-offending from open conditions remained high: “...you gotta be thinking all the time really...how far is he from where the offence took place...if he is on a town visit could he get to that place” (Hugh - Prison Officer). “You might get a gut feeling that he is doing something wrong, and if I did...I would recommend a continued period in open conditions” (Jonas - Lifer Manager). The caution displayed by Jonas was not unique within HMP Shaw. In part this could be due to the newness of the lifer experience. The personal (unofficial) versus professional (official) dichotomy exemplifies how the personal impinges on the professional regarding ‘fact’ (see Southey 2007). MLS prisoners have, and continue to be subject to, ‘gut feelings’ regarding progression within the system or recall from the community.

6.5 The Recalled Lifer

The Rice Report (2006) highlighted poor communication and deficits in risk assessments as prohibiting successful release and subsequent recall to closed prison. Arnott (2007:182) states: ‘the probation recall request will usually be the only document relating to reasons for recall and may contain only the vaguest detail about the allegations. It may contain multiple ‘hearsay’. Once recalled to closed prison, many years of imprisonment lay ahead. The longer the prisoner takes to progress toward open conditions again the more pressures

are placed upon him and staff to avoid failure as according to Southey (2007:239): ‘each failure increases the political pressure to introduce policies that increase the unnecessary use of imprisonment.’

The findings indicated that a number of factors were at play with the recalled prisoner, parallel to those identified earlier in this chapter. With regard to a typology, these included those who ‘blamed’ the system and others, those who were not ready or prepared for release, and those who were recalled for ‘trivial’¹¹⁹ reasons. The test for recall for MLS prisoners is where there is risk of serious harm. Arnott (2007) raises concern over insufficient scrutiny occurring in cases of recall and whether the recall has a genuine causal link to the original sentence. Isaac was returned after the disclosure of historical sex offences. This term of imprisonment would be longer than his original MLS of the 1960s. He explained imprisonment as an older prisoner was difficult: “It was like bumping into another world”. Isaac’s more pressing concerns were now his public identity as a sex offender: “...It worries me going out, with this Sweeney¹²⁰ lark. It could be hard for me now to get back into the community. I will need a lot of support this time”. Isaac will need to manage his co-existing identities when he is released. He will be subjected to legislation regulating and controlling sex offenders, and will no longer be able to live the subversive lifestyle he led during his unsupervised years on life licence.

All of the prisoners interviewed cited recall as one of their greatest post release concerns. But this intermingled with other concerns. Sam was concerned that he would be: “... lonely and scared and just come back into prison. The probation service is changed out of all shape and I don’t feel that they are there so much to help and support...if they have the slightest fear that something may go wrong they will recall you.” Wilf firmly believed his relationship with his probation officer instigated his recall:

I had an argument with him, told him the truth. He didn’t like that, he was a bastard. The ex-wife had just had a miscarriage she took some sleeping tablets when she wasn’t supposed to. He came to the house and started shouting and bullying at her blaming me saying it was my fault. So I told him to ‘F’ off out the house... he put me back inside for threatening language...

¹¹⁹ Trivial reasons were those defined by staff as not linked to a new offence or associated with the original offence. They were defined as ‘suspicions’ or ‘concerns’ from professionals in the community.

¹²⁰ Craig Sweeney was a convicted paedophile who re-offended after early release. He kidnapped and attacked a three year old girl. He was jailed for life for this offence with a minimum term of five years.

This wasn't the only occasion Wilf had been recalled. He failed to return to the hostel from a home leave the year before his interview. He could offer no explanation to me as to why he did this "I just can't explain why, even I can't understand why I buggered off"; this is perhaps illustrative of the findings of the 1996 internal review of open prisons, which found no precise reason for absconding. Despite this action Wilf progressed quickly back into open conditions at HMP Shaw. He had managed to convince everyone his risk was minimal. He was appearing to skilfully manage co-existing identities. However, Wilf failed to arrive at his place of work two days after his interview with me¹²¹.

The apportioning of agency blame and avoidance of personal responsibility regarding decision-making was a strategy employed by staff. Recall to closed conditions was predominately for drug and alcohol use, both contravening the standard conditions of the life licence and resettlement licence. For Jack, the experience related to the above and his offence:

I was stuck there (Blaine) on a three-month lie down for drugs. That lasted sixteen months, then I was moved back to Shaw. After about five weeks they said, it is no reflection on your behaviour but we have to move you back to closed. Why? Apparently I shouldn't have been there. I had lost my Cat D status and nobody tells me? So I find myself in this situation where I am pulled back in. *I was looking forward to working out the following week...For me this has been the hardest part of my sentence, mentally and emotionally, the trials and tribulations of the last two years with this prison... I have spent three months in open (his emphasis)*

Jack's account contradicts staff claims of open approaches informing prisoners of what needs to occur for progression. There are two plausible explanations as to why Jack was not told he had lost his category D status. The first is that policy and procedures were not followed. The second is fear of prisoner repercussions and potential management issues. Jack's situation was indicative of the pressure facing the prison from the local community regarding the placement of sex offenders on the one hand; and on the other, it raises the question of how appropriate his original placement was. Inappropriate moves to open conditions caused staff concern, particularly in terms of progression through closed prisons: "...working here you come across a lot ... manipulation ...callousness and shallow affect. You can see it... and when you look at their tariff dates it is quite shocking how quickly they got through the system" (Amanda -Psychologist).

¹²¹ He remained unlawfully at large until December 2009 and will have to again progress through the system before returning to open conditions.

Enhanced progression was linked to the report writer's inability to understand the seriousness of the recommendations and subsequent conclusions they were making. Contrary to Kemshall's (1998) findings, agency blame was attributed by staff:

Some reports are written just to get people out of certain situations in Cat C. The prisoner is causing trouble and solicitors are on the Prison Service's back. When they get Cat D it causes us an immense amount of hardship in trying to deal with that...if the people in Cat C or B, ...don't think he is suitable for Cat D conditions they should put that in their reports (Jonas - Lifer Manager)

The expectation that prisoners are ready and prepared for open conditions was assumed by staff and was coterminous with a reduction of risk, thus contradicting the above: "the only reason they land here is the Home Secretary has the final decision...they come here as being deemed less of a risk...this is the final test" (Hugh - Prison Officer). However, when I asked Hugh if he ever considered prisoners at HMP Shaw are still dangerous: "[pause] no doubt about it, I wouldn't say all of them, but yes some of them are", therefore confirming Jonas's concerns. Resources and the ability of staff to deal with prisoners who aren't prepared or ready for open conditions were seen by staff as being problematic "we haven't got the staff to deal with someone who isn't ready to be here and that itself poses a risk to the public" (Jonas - Lifer Manager). Thus raising a contradiction of the earlier use of the word 'safe' as stated by John - Senior Manager (section 6.4)

The question for Jack was whether he was considered able to handle the regime of open conditions, or whether his offences in that particular political environment had been too great. He had no doubt that the latter was at play and the case of Rice (ibid) resulted in his situation:

But then you get somebody called Rice, lifer... on licence and... kills somebody. All of a sudden politicians are going crazy [long pause] the whole Parole Board system has changed... this affects me, because I am sitting here waiting ...because they have changed the policy... Now I got to go before a judge... I have got to go before him for an oral hearing, just to get my D cat back, which I should never have lost in the first place (Jack)

Sex offenders like Jack and Toby were returned to closed conditions in part due to the behaviour they exhibited in HMP Shaw and in part due to the immense pressure staff were under in appeasing the public, managing risk and undertaking work with the newly arrived lifer population.

Joseph, a sex offender, had prior experience of open conditions before being recalled for possession of pornography. Despite working his way back to open conditions the same thing happened again. This behaviour could be indicative of entrenched beliefs and thoughts, or the inability to cope with open prison. Joseph had been in HMP Blaine for two years at the time of his interview. Like the other men, Joseph was concerned about recall from the community. He was demonstrating future time perspectives, a theory that Sapsford (1983) indicated was not present in lifers: “...If I get recalled I am not going to be released in my lifetime...I have done 28 years, If I get recalled, I am 51 now, if I come back in again we are talking about a long time. So recall does really worry me”.

Joseph’s narrative confirms the hidden nature of indeterminacy for those recalled and the reality of life-long imprisonment. Prior to his recall, Joseph was working out from prison five days a week and his prospects seemed good: “where I was working they were willing to accept me out for pay. I was going for my driving licence and things like that”. Joseph’s recalls can be attributed to an inability to manage co-existing identities and/or integrate those identities in a way that was acceptable to the authorities. In these circumstances one can question whether men adopt strategies to adapt to imprisonment without losing touch with their own identity and the life they wish to recreate on release, or if their dominant identity has been retained throughout the sentence.

The concept of ‘co-existing identities’ can be considered with regard to life outside of custody and can be linked to the choices men make with regard to conforming or rebelling. Making choices was seen by some staff as self-responsibility, but for others highlighted the complexity of trying to shed the prisoner identity and regain a quasi-free identity. In this thesis I have made reference to some prisoners reconciling themselves to continued indeterminacy. From the perspective of the staff interviewed, this phenomenon occurred mostly when referring to recalled lifers. The following section will provide an insight into how the prisoners confirm or dispute this phenomenon.

6.5.1 Institutionalisation and Prison as a Place of Safety

A consistent theme regarding long-term prisoners has been a dependency on the institution or institutionalisation (Goffman 1961, Cohen and Taylor 1972, Sapsford 1983). Eight men confirmed this. However, there became an apparent divergence on how MLS prisoners viewed institutionalisation - fearing and being. Both perspectives were defined from the

perspective of the 'self' or others. Daniel stated: "they say I am institutionalised now. To a certain degree of course I am. After being in so long I will be". Alfie responded more forcefully: "you become institutionalised, you get locked into the routine, dinner at 12 o'clock. Banged up till 1.30, work, tea at five, banged up. You get institutionalised". During the period in open the men reflected on how they had seen other prisoners succumb to being institutionalised:

Some people say that they feel institutionalised... I have never been that, never... well you can spot them by the way they talk, the way they look and just by their general demeanour. By the way they walk about. Yes I can tell them a mile away...I knew a lovely bloke ...gave himself up said, I am institutionalised, he hated life out there. Strange. (Archie)

Archie absconded after being refused release the day after his interview. His personal officer was troubled by the Home Office decision and informed me that Archie had done everything asked of him. Archie had secured a full time job and accommodation for his expected release. He was 61 years old at the time. Archie was apprehended a few days later and returned to closed conditions where he will spend many years. His chances of regaining employment when he is released are minimal.

Some of the younger men also dissociated themselves from succumbing to accepting prison: "I think positive all the time, to go negative I would probably slip down the cabbage route...I got through it because I am a mentally strong person" (Leo). Jack said:

You are going to see someone... He has been in over 20 years. He is *so institutionalised he can't even think for himself anymore*... I can still think for myself thank God. But to see the complete opposite it is just heart-breaking. It doesn't help *anyone* being in so long. *If you can't move past a certain point you will regress, then there is nowhere for you to go, it puts a shell around you and that is depressing* (Jack his emphasis)

Staff recognised the impact of imprisonment in general and the conception of the vulnerable prisoner. "They are institutionalised and see themselves as different from other lifers and determinate prisoners" (Grant - Prison Officer) - this was a recurring theme from other prison officers: "because these boys, been away in closed for a long time, in some cases 20 odd years. I wouldn't say they were unstable, but they become institutionalised" (Hugh – Prison Officer)

There was a general awareness from prisoners that institutionalisation occurs within the lifer population. Unsurprisingly, the men who had been in the longest felt they were

institutionalised. Oliver's narrative indicates the lived experience and hence the difference between thinking about the concept as was evident in Cohen and Taylor's (1972) research, and being part of it:

J: Do you think being in prison so long has institutionalised you?

Oliver: I think inevitably it has, I would prefer to think it hasn't ... but the fact of going out on town visits actually *feeling* what it was like rather than thinking about it, there is a difference... *There are things that will get to me and occasionally I will be stood by the gate thinking it is locked when it is actually open* (his emphasis)

The insecurity experienced by MLS prisoners was considered a compounding factor in the failure of men to progress toward or on release. Joseph confirmed how being in prison so long had become a place of safety and a way of life and how difficult it would be to see an alternative:

I am institutionalised to a good degree. I have to keep kicking myself up the backside to motivate myself and try and see a light... I can see where I am better off in here, everything is done for me. I get me pocket money, clothes cleaned, laundry, food cooked...so I really have to convince myself that there would be a positive outcome if I got out there.

Joseph was aware that his identity as a sex offender would become public in the community. He had demonstrated in prison his inability to manage co-existing identities - hence his recalls. He exemplifies how prison becomes a place of safety and a home; a place where apathy and dependency have been fostered over his 28-year stay. The impact of imprisonment and the complete readjustment the prisoner has to undertake in open conditions can be considered in relation to everyday activities most of us take for granted: Dining hall was my thing here, *I have been eating on my own for 10 years* I know one guy here who still won't go in because he doesn't like people around him now. *I still have my odd days* (Alfie his emphasis).

6.6 Conclusion

This chapter has considered the policy and practice at HMP Shaw. The difficulties facing MLS prisoners arriving at open prison have been demonstrated using narratives. The prisoners had an expectation that progression would be swift and their time fully occupied. The reality for them differed. The lack of suitable constructive activities to fill time was unexpected. The arrival of MLS prisoners removed staff from their comfort zone. The challenges and demands of working with MLS prisoners in open conditions presented difficulties as prisoners attempted to conform to new experiences.

The research provides an insight into the impact of indeterminacy together with indications of how and when dependency on prison occurs. The interviews have produced evidence of how the MLS prisoner is constructed by staff, based predominately on prior experience and knowledge in closed conditions, and drawing on the official discourse of the agency they represented. The men's narratives confirm and refute these constructions. They also offer their own explanations for their behaviours; these are linked to indeterminacy, the offence and a sense of autonomy in a regulated environment. The offence of murder was thought by staff and prisoner alike to differentiate the prisoner as much as the sentence itself. The concept of deserving and undeserving MLS prisoner emerged as did other typologies, producing similarities in terms of existing research regarding prisoner typologies, classifications and constructions of identities (see chapters 3 - 4). The differences occur when considering how these typologies and characteristics are used (by MLS prisoners as opposed to other categories of prisoners previously studied). For example, some prisoners in this study had no need to rebel in open conditions; doing so would impede progression. Such identities and classifications became redundant for them; they no longer serve the purpose of maintaining such an identity as a means of coping with imprisonment. They may become part of 'backstage' performances (see chapters 3 -4), demonstrating management of co-existing identities. During times of stress or frustration, they may become front stage and manifest, for example, through drug use and absconding. The staff imposed typologies of the denier, deceiver, adjuster and, ultimately, the vulnerable, will follow the prisoner into the community as each typology forms part of a spoiled identity that may be revealed or concealed. The response from professionals who monitor and supervise him will determine his success as a quasi-free person. The categories will undoubtedly be interchangeable in both the custodial and release period.

A major theme of this chapter has been risk - the ubiquitous concept that creates and maintains the legitimacy of the sentence and hence the continued confinement of the prisoner. The responsibility on those who compile reports, assess risk and recommend release is enormous. The staff portrayed as committed to the work they did and the responsibilities they had weighed heavily on them both personally and professionally. I had to be careful not to be drawn into political and personal battles between staff who saw the interview situation as a venue to 'let off steam'. That is not to say that the professional differences identified were irrelevant - quite the contrary; they inform the difficulties faced

by professionals from diverse organisational cultures and ultimately the precarious position of the prisoner. One of the major concerns for all staff in open prison is absconding. There has been no substantial research on absconding since Banks et al (1975). The prison population and characteristics of prisoners and society has changed dramatically from this period. The men who had previously absconded in this study presented themselves as doing it as a reaction to their situation and their inability to cope with open conditions, alongside the inherent difficulty of managing the impact of indeterminacy.

“I want people to view me for who I am now, not for this big label that will hang over my head for the rest of my life” (Harry)

Chapter Seven: Managing Co-Existing and Intersecting Identities

7.1 Introduction

The primary argument within this chapter is how the impact of imprisonment and the interventions undertaken in closed conditions impinge on how the subsequent co-existing and intersecting identities come into play and are managed and maintained as a result. As with chapter six, the accounts are not telling a linear story but reflect back to time prior to imprisonment and the identities once held. Consideration will be given as to how or whether these identities are reconciled at what could be their final stage of imprisonment. The chapter will commence by discussing how the men approached programmes and therapy in closed conditions. Consideration will be given to the conflicts that arose and how these were managed, maintained and reconfigured once in open conditions. Previous life experiences play a part in how they approached imprisonment, and considered release. These experiences can determine how their identities configure, particularly as they begin to regain a sense of autonomy in open conditions where they consider relationships within the parameters of quasi-freedom. Here the impact of indeterminacy can be considered in terms of family relationships, the disrupted life-course and erosion of once prized identities. In terms of having a sense of belonging, the concept of the ‘lifer community’ will be considered within this chapter. An examination of how the men have occupied their time during imprisonment and the purposefulness of such activities demonstrates how identities have been maintained and, in some cases, concealed. The usefulness of these activities is questioned when the men consider working within the community. The chapter concludes by examining how the men and staff approach the disclosure of offences alongside participant perspectives of the nature of offences, demonstrating how co-existing and intersecting identities are at times conciliated.

7.2 The ‘Grendon Graduates’

HMP Grendon¹²² has been the subject of substantial research (see Genders and Player 1989, Smartt 2001). The ethos of Grendon deviates from what can be considered the

¹²² In 1939, Dr W.H. Hubert, the visiting psychotherapist to HMP Wormwood Scrubs together with, Dr Norwood East a medical officer recommended the establishment of a penal institution with a psychiatric emphasis. The rationale for such an establishment was to evaluate the effectiveness of psychological intervention and treatment regarding ‘preventing and curing’ crime. This recommendation was fulfilled 23 years later with the opening of HMP Grendon Underwood in 1962.

conventional norms of prison life. At Grendon the prisoner is encouraged and expected to inform on others, to disclose to others the enormity of their crimes and, most importantly, trust staff. Six of the men had been to Grendon, one other had been to Dovegate¹²³. The impact this had was evident in their narratives. They spoke with immense detail and had no hesitation in making the private public. Oliver was unusual in the fact that after eight years at HMP Grendon, he was transferred directly to HMP Shaw¹²⁴. Any previous identities the prisoner had were explored through therapy and used as a means to redevelop the self. The ethos of Grendon was accepted by all but one man who had been there as being the best intervention they had and a powerful determinant in looking at themselves as a person, not a murderer, whilst confronting the spoiled identity:

They taught you to have respect, dignity and humility toward others; it really opened my eyes... I started to like things about myself, whereas I disliked myself for so long because of what I had done, I could look at all my other qualities and I could like myself as a person. It is ok to despise myself for what I had done, the hurt I had caused to others. But at the same time I am a human being with good qualities about me...it was the first time in prison I could feel comfortable with myself and be honest and admit what I had done knowing that nobody is going to judge me for it (Jack)

The consensus from the Grendon men was that all lifers should have the opportunity to go to a therapeutic community: "I think everybody should get therapy meself. ...You have got to respond. You can't sit there and do nothing. Plus you got to listen to other people, which is hard work as well" (Alfie). Attending Grendon was not an easy option and was approached with trepidation. It was a particularly painful experience for those who initially found making the private public difficult: "I was scared to go to Grendon, ...what it would be like, and I had to talk about a lot of deep issues... one of my first objectives was to come to terms with my sexual identity. I didn't know if I was a man or a girl... I didn't know if I could sit and talk in a group about things like that" (Toby)

¹²² HMP Dovegate has a separate 200-bed Therapeutic Community for repeat serious offenders. The unit, the only privately-run one in the UK and the only purpose-built therapeutic facility, offers its residents daily group therapy and a high degree of influence over the way the unit is run. The system, pioneered at Grendon prison in Buckinghamshire, has been suggested to significantly reduce the rate of re-offending among serious repeat offenders (Serco 2009).

¹²⁴ The other prisoners had all returned to closed prisons after attending HMP Grendon.

Within this context the men had to consider not only their own spoiled identity, but that of others. On entering a therapeutic community, prisoners consider their own crime and past to be unique to them. Within therapy the realisation that others have had other, or worse, experiences becomes real: "...you are with people you hate and despise some people's crimes but you are level in the same room and that was the hardest part" (Zachary)

Grendon was a place to gain a sense of self and look at their backgrounds and crimes. It was constructed by the interviewees who had been there as a safe productive space in which to consider spoiled identities. Five of the men found Grendon had provided a forum for them to consider their troubled childhoods and develop some understanding of why their childhoods caused those problems later in life: "...I got a better understanding of why my mum left me and why I murdered [Peter], and my whole life really." (Sam) "I had a lot of emotional problems from my youth. I got a result from Grendon. It is about laying old ghosts to rest and getting rid of emotional baggage from the past" (Billy). Therapy had produced a particular discourse through which the men discussed and reconfigured their identities, spoiled or otherwise.

The positive experiences of Grendon are disrupted when the prisoner returns to mainstream prison and has to readapt to a more controlled environment. However Oliver, being a recent Grendon graduate, was able to put his therapeutic identity into action at HMP Shaw: "Grendon encourages you to talk... I guess that is how I cope now, when things get on top of me I find people to talk to here. It is the staff. I find the inmates a bit daunting". Leaving the therapeutic community evoked differing responses from the men who had experienced time back in closed prison: "... you come out of Grendon and straight back ...in prison; they should have Grendon as the last place in a sense [pause]" (Sam). The realisation of returning to mainstream prison and reverting to cognitive based courses proved difficult for Toby: "I left Grendon a success, only to go back into a system to do a bastardised version of Grendon with psychologists, which I really did resent."

Only one prisoner, Noah, found therapeutic communities a façade, where co-existing identities were used as a means of self-gain¹²⁵:

¹²⁵ Using interventions as a means of self-gain and progression was indicated by Hudson (2005) as being a feature for some men of the sex offender treatment programme.

I have been to places like Grendon. Got kicked out twice. ...everyone talks the rubbish on the courses on the groups, after, they are just laughing at the staff because it is a big con. .. It is a waste of time because no one is taking it seriously. I saw a documentary on it and all these people was crying in front of the cameras... every single one of them had re-offended

Using co-existing identities as a means of self-gain was confirmed by Ben. He admitted that he had used an invented identity of being abused to help him through his sentence and have an easier time by constructing an identity as a paedophile killer, enhancing his status within the prisoner hierarchy (see chapter 6). During his time in therapy he found maintaining this identity problematic. His narrative is indicative of the emotionally powerful therapeutic environment:

...It was therapy everyday...it got more and more difficult to wear this fucking mask that I had created. These people were my friends, they had been battered, abused, fucked up and I was telling them a bunch of lies. I couldn't handle it...keeping up the story with people who had really been through all that shit, who saw me as a hero for what I did. No when I think back I wasn't a very nice person for doing this, for betraying these groups. Therapy really does make you look at yourself (Ben)

Therapy appeared to help the majority of the men consider who they were and who they wanted to be. Course work based on cognitive behavioural approaches told the men who they should be (see chapter 2) and was generally seen negatively by the prisoners interviewed.

7.3 “All these mindless bloody courses” (Alfie)

Attendance on cognitive behaviour based courses led to the creation of ‘a prisoner’ and enforced identity. The prisoner knew that his participation would help him progress through the system. How the prisoner portrayed to course facilitators can be considered within the context of co-existing identities and the development of ‘official speak’: “Course work done nothing really some of it stuck in my mind, some of the tools. *I hate that word* but I still carry on using it, *I still carried on like before but it gave me the terminology*” (Ben). The embedded language to which Ben refers allowed him to develop co-existing identities and subsequently progress.

The men acknowledged that participation was their means to progress. Only Joshua refused to participate. He maintained his innocence: “the courses make you a guilty man.

That has been proved”. For others their participation was enforced and their responses indicated their discontent:

...A waste of time. But, you have to do them...you get to the stage where you aren't going to move unless you do... I did the CARATS¹²⁶ course last, it is just repeating the same thing. I know more about drugs then they do... I have killed somebody because of them. But, you can't say that. You just sit there and go through the motions... it is soul destroying... I never had a positive test. I don't touch the stuff anymore and you just want me to do more courses all the time, why, what is the point? (Alfie)

Alfie was unable to see the link with his index offence and the need for the Prison Service to ensure that he would be 'safe' to release. He was expected to undertake further course work. His perspective is evident from his narrative:

...you can say nothing and tick a box and everyone will say it was a good course. I got a lot out of it. I learnt a lot. And of course, psychology, oh well it works doesn't it! But it doesn't. It does fuck all... if you actually told the truth and said it was a waste of time they will say oh you have to do it again. So you can't really tell the truth... I am doing one to one work here with the psychologist. You got to. You can't say no because if you do you just start getting knock backs. And when it comes to your Parole Board it is just like a bloody sword hanging over your head...

Henry considered the need to portray as having reconfigured his identity. He had learnt to present himself in a way most conducive to his progress:

...you learn quickly to understand the way they think, and not give direct answers. If you say, let me take that away and think about it they like it far better. I haven't cheated. That doesn't work. You just learn to save yourself a lot of aggravation... what is best for you in the system at the end of the day

From a staff perspective each prisoner makes a choice as to whether he conforms to what is expected of him. The 'choice' considered by the staff is one that responds to cognitive intervention, based on correctional thinking and desistance from certain thoughts and activities; failing to comply with interventions results in continued imprisonment. The prisoners all indicated that their participation was a means to gain freedom. For some prisoners they saw the use of courses quite clearly as a means for staff to extend their detention and confirm indeterminacy:

They wanted me to do a PASRO¹²⁷ course. I got sent to Ashwell. When I got there they said I wasn't suitable. I told them that in the first place. I had to go half way up the country to be told that. In the end I volunteered I told them now I am here I will

¹²⁶ CARATS – provides counselling and support for substance users, either on a one to one basis or groupwork.

¹²⁷ PASRO – Prisons Addressing Substance Related Offending. These are offending behaviour courses designed specifically for those with substance related offending.

do it and it is out the way and they can't put on reports that I haven't done it or addressed that (Daniel)

Daniel was ensuring he could access a place on a course that would be considered beneficial for his release. The IPP prisoner¹²⁸ (see chapters 1-2) has, through legal intervention,¹²⁹ become a priority when courses are allocated. The lack of availability of courses and stagnation of prisoners was recognised by the staff:

They (MLS prisoners) have periods of not progressing through the system...Courses are limited. Places are limited. So they wait... spend months stagnating in local prisons...it is very unsettling indeed (John –Senior Manager).

...you have somebody who in their first five-six years inside moving from prison to prison doing nothing proactively. Just being locked up and shoved from pillar to post. I don't think that helps (Jonas –Lifer Manager).

The implications of the IPP in relation to the impact on the staff, their resources, work and population had not been considered by the staff interviewed. Some were unable to engage with the concept, as they had no experience to draw from. For others some very serious issues were raised pertaining to risk:

We haven't got the resources to risk assess every life sentence prisoner, or compile reports. It is a minefield especially in Cat D. When you are in open so many things can change or increase their risk factors... if anything does happen you got to write *another* report; an addendum report. For some of them you could be writing the addendum on the addendum on the addendum. Yes, so it is simply how to resource it? (Amanda – Psychologist).

Daniel and Oliver found their identity was constructed around the risk assigned by the report writer which prohibited their progress:

...It was a damning report because I got a two-year knock back. They said I needed to do the ETS¹³⁰ again ... This was from a psychologist and probation officer that I met for an hour...the first time in 16 years it come up that I felt no remorse for my victim. *She interviewed me for one hour. I couldn't believe what was written...it is frustrating but you just get on with it. You know what the system is going to do to you* (Daniel his emphasis)

¹²⁸ With over 6,000 IPP prisoners in the system the impact on the traditional lifer population can and will have severe ramifications particularly if more determinate sentence prisoners are transferred into open conditions as a result of prison overcrowding. Priority will be placed on determinate sentence prisoners who are less risk and require less intensive supervision and support from professionals.

¹²⁹ Brett James an IPP prisoner was released from Doncaster prison by Mr Justice Collins who declared that as his minimum term of one year and 295 days had passed, and, as Doncaster had no facilities to enable him to follow a course to demonstrate he no longer posed a further danger, he could not be further detained.

¹³⁰ ETS – Enhanced Thinking Skills – a cognitive correctional course designed to offer more socially acceptable ways of dealing with situations.

...just set up to work out and then, no, sorry you need to go back to Blaine to do this course. *So I went back to do a '12' week course and it took nine months. And when I came back here they said the dates don't count. So you have to do all the stages again. So I have had to defer this DLP¹³¹ three times now* (Oliver his emphasis)

The Parole Board must try to ensure risk has been reduced such that it is safe for the men to be released and that the men have responded appropriately to the interventions. The men also considered how their violence had been reduced through course work and how the intervention had reconstructed their identity:

...I suppose I am less violent now. But I am submissive, less happy. I prefer the fact that I had to look at why I murdered [Peter]. I wouldn't like that to happen again. So anything that I have done to stop that happening again is a good thing, for me, not the system...They want you to do all the courses and move on, but you are living in a goldfish bowl with other violent people... (Sam)

During course work, the prisoner has to consider his identity within the context of his crime - murder. Within this framework, the prisoner is not allowed to let this subside and is always reminded of the spoiled identity such a label carries. He cannot shed this identity within this context: "it took me eight years to face up to the fact that I did commit the crime, and look at myself, and, not like myself" (Joseph). The risk and danger the men pose and their continued detention are considered within the arena of course work. Sex offender identities are inextricably linked with risk and danger. Toby's narrative, whilst distressing, is indicative of the risk he posed and questions the effectiveness of interventions. His narrative indicates justifications and excuses:

when I was doing the extended SOTP¹³² I spoke to my dad and told him I was doing a PPG¹³³ he said what is that and I said it is where they wire up your penis and show you pictures...because I told them that I had fantasies about rape.... He said fuck that I ain't surprised with the time you have done... it doesn't mean to say you are going to do something. I don't think that shit anymore anyway. It was only on the odd occasion and usually toward someone in authority

Toby at the time of interview had been recalled to closed conditions. He had previously successfully concealed his risk and spoiled identity by managing his co-existing identities in order to progress to open conditions. It was the view of the staff that Toby would spend

¹³¹ Discretionary Lifer Panel of the Parole Board came into force in England and Wales in October 1992. The DLP originally decided whether and when DLS prisoners should be released (Padfield 2002)

¹³² SOTP – Sex Offender Treatment Programme a cognitive behavioural programme looking at offender insight, motivation to change, and skills needed to avoid offending. Undertaken in groups

¹³³ Penile Plethysmography – a test used to measure physical sexual arousal in response to a range of images, can be used to measure deviant sexual preferences.

many more years in closed conditions and would be presented with a plethora of coursework before progression would be a consideration.

Enforced participation on courses for lifers is similar to detainees held under mental health legislation. In order to prove their progress and safety for return to society, they too have to conform to intervention in which they are powerless to resist. The men indicated that courses were ineffective, but a means to an end. This was quite pertinent for men who had been recalled to prison:

Well if you are a lifer and you don't do the courses you don't see the front gate. So you are blackmailed into doing courses like ETS. You got to take them or you won't get out. That is a fact. These courses do no good at all. The only reason we did them was if you didn't you just got knocked back again and again until you did do them (Wilf)

I did something called the extended SOTP. I never done the SOTP but the extended. It was all about relationships your fantasies and lifestyles...a bastardised version of what I did at Grendon. I told them and then I got stitched up at the end of it as an untreatable psychopath that shouldn't be released (Toby)

The mixing of a therapeutic identity and a cognitively corrected one produces tension; the two methods are diametrically opposed. Constant participation on courses can become too much for some men: "... I had done about 10 years in therapy and I had a breakdown at the end... overload. I went on another course and just snapped. I couldn't take anymore. I just needed a break... it was all too much... I had done all sorts, that many that it is just unreal" (Jack)

The men did find some positive aspects from course work and concluded that being in prison had given them the opportunity to understand others' perspective as much as their own: "being in prison has changed me in the sense that it has made me...take more consideration of other peoples feelings and look at the world in a different light" (Henry). Prison provided for some men a place to contemplate on who they were. The men used the experience of therapy and intervention to reflect on their past identities and come to an understanding of who they were:

... there were certain things surrounding my crimes what motivated me...these things were linked to my childhood and the way I felt as a child [long pause] rejected. Being rejected is my biggest fear, because, I have been rejected all my life... I started to isolate myself and act and behave in certain ways and there was this big cycle of offending...Learning about my cycle of offending and what makes me tick and led me down this road... I can see all the connections to my

childhood. ..It was like putting a jigsaw together and finally thinking I know where the pieces go...it was a relief because I am not a fucking monster, a freak, anymore (Jack)

Oliver used therapy and courses to uncover his sexuality and develop a more acceptable personal sexual identity:

... at Wakefield I started to work through my sexuality and come to the idea that I was gay. But then that raises a lot of questions. Why did you offend against a woman...I was in a relationship with a guy there for a couple of years...But from the moment I hit Grendon I was open about my sexuality (Oliver)

What Oliver did not say was during his eight years at Wakefield he did not undertake any formal offending behaviour work, his dossier at the time indicating he 'showed no remorse'.

Managing co-existing identities was considered in relation to the fears some men had regarding life in open conditions, and subsequently the community, and contradicts the identities developed in interventions. However, the following quote demonstrates how the co-existing identity can work in tandem with the immersed intersecting identity:

I suffer greatly from anxiety. I am an anorexic. I cause people concern with my behaviour. That doesn't mean I am going to do anything. But I have been on suicide watches before because people over react. I have been in a strip cell for four days when there was no need. I get anxious if anything is going on in my head. Anxious to speak to people in case they over react. I don't want them to send me back to closed. Once you go back it is very difficult to get out. *I tend to keep it in and show I am a steady person, I don't like doing that. I prefer to be upfront and say what is happening* (Sam his emphasis)

The time Sam had spent in therapy, where he had to make public his thoughts and feelings, is being compromised in his account, alongside how he perceives he will have to manage his identities in the community. He is trying to manage these identities in open conditions in order to retain his place. He was classed by staff as being a 'hard to place prisoner'¹³⁴. His ability to manage conflicting identities will be necessary if he is to secure release. He was concealing his therapeutic identity the one with which he was most at ease, in order to convince the authorities he was coping. Coping with life inside and considering a future life outside will be examined in the context of the men's previous life and custodial experiences.

¹³⁴ These prisoners are 'hard to place' in terms of work outside of the prison and where to reside on release.

7.4 Negative Life Experiences

Seven men had experienced institutional care as part of their pre prison identity. ... “by the time I was 11 I found myself in a children’s home. From there foster parents...they were a disgrace. They shouldn’t have been allowed to foster ... it was unreal what I suffered, physical, mental and sexual abuse” (Jack). Being in the care system was, for some, a precursor to imprisonment: “I was put in care when I was six came out of it at 14 and was in prison from 15-20” (Alfie). Of the seven men, five had previous custodial experiences. These experiences helped them cope initially and alleviated the pains of imprisonment (Sykes 1958). “I had been in and out of prison all me life since I was 16 so it wasn’t as bad for me” (Zachary).

These experiences shaped, in part, how these men saw themselves through a spoiled identity. Who they were prior to imprisonment impacted on how they developed an identity within prison, how they approached their imprisonment, without family support, or with family support - which may have been acquired through marriage and/or having children - and the ramifications this had in open conditions. The staff unsurprisingly noted that the lifers fell into these two categories. Those with family support were seen as the fortunate ones who had everything to work for and, as such, were less likely to fail in the community. The other group were defined as the ‘nothing and no ones’, and seen as most likely to fail in the community:

A lot of them have no family or friends left; they might have died or disowned them. Getting close to the lifer can be difficult for families, after all, he has committed the most serious of crime, *they become a nothing and a nobody; that can be difficult to work with...* (Charles -Prison Officer, his emphasis)

This group were defined as more inclined to see prison as a place of safety and even a home. The hopelessness of such a situation was acknowledged by professionals across disciplines supporting the findings of Cohen and Taylor (1972) Richards (1978) and Sapsford (1983) “... for some of them they have been in the system so long it is hopeless...family support is the key to their success as the length of time in the system is so detrimental” (Grace-PSO). From a prisoner perspective Wilf agreed with this: “it is hard for those who go out without family support especially as probation is less supportive now”. Some staff linked the loss of family contact with men sabotaging their release:

it is the realisation ... getting nearer to release ...is why some of the men carry out behaviour to send them back... I can understand why that is scary for them especially if they haven’t maintained contact with family or friends, or they have

passed on, they haven't even got that level of support network (Amanda Psychologist)

Amanda's perceptions were confirmed by Harry; he however, considered his behaviour more in terms of his culpability:

...my conduct has kept me over tariff, because...the chances are I would have been on or just over my tariff, and ...discharged...they keep telling me the only reason I am still in prison is because I keep shooting myself in the foot...but guilt plays a part...if things are going great for me, I start to think, well do I really deserve this, and subconsciously I am doing things to stop myself getting out.

Sustaining any form of meaningful outside relationship is difficult in terms of indeterminacy. Existing research on long-term prisoners has suggested men either work hard to sustain the links, or choose to cease contact; the men in this study also followed both¹³⁵. The choice reflected how they considered their situation, their identity and their future. The following section will consider how family and friends form part of the management of their identities and is illustrative of how they and others view them.

7.4.1. The Punished Innocents

On average, the men in this study had previously resided in eight prisons. The unsettling nature of moving from prison to prison affected both them and their families. Oliver's narrative is drawn from his experience of being on remand aged 17. It provides an example of how prison dehumanises and estranges the prisoner. It shows the helplessness and powerlessness that prisoners then, and now, have to accept, together with the inevitable distress caused to families:

One afternoon the door opened and they said, right pack your kit...I was half in tears, cuffed up and they led me out the back. There is dogs around and into a van out of the prison. No explanation. Nothing about where I was going.... My parents turned up that afternoon only to be told I wasn't there anymore.

It was not unusual for the men to be held hundreds of miles away from their families throughout the MLS: "They have always kept me in prison hundreds of miles from home so it has been difficult" (Noah). The probability of sustaining family contact under these circumstances diminishes over time. Maintaining meaningful relationships also becomes fragile: "I ended up with a 15 minute visit once a month that was really upsetting and unsettling for me as well as for my family" (Harry). Not only do the men have to comprehend the magnitude of the MLS; so do the family. All of the men acknowledged

¹³⁵ For some in this study the choice of cessation of contact was imposed by their families.

their families were serving just as much a sentence as they were. The realisation of this prompted differing courses of action. Leo, for example, found: “they are serving the sentence with you so you got to be positive for them. Knowing that you will see them again keeps you motivated”. Leo used his family contact to help him cope with the MLS. However, remaining positive was hampered when visits did not take place as expected: “I never got depressed due to being banged up but, *because I never got a visit yesterday, it got cancelled* that is what I used to get depressed about” (his emphasis). Isaac experienced similar feelings during his original MLS: “I had no visits ...Watching other people have them...was the thing that used to get to me”.

A compounding difficulty for the men was the acknowledgement of their parents ageing. By the time the men had reached open conditions, the continued visits from them had diminished, particularly for those who had served over 20 years: “I don’t get visits because it is too far for my mum. She is 73 and has bone disease” (Joshua). “They come down when they can, but their health is not good now. I mean they are in their 80s so the visits are no longer regular” (Oliver). The impact the sentence had on the family was not negated by the prisoners; as Billy stated: “They do more bird than we do.” The family were seen as the ‘punished innocents’ “If a lot of my sentence has ripped me apart, all of it has ripped my family apart” (Toby). The early years in closed conditions accompanied the initial estrangement and anxiety. The time in open conditions presents new challenges as the men re-establish links and manage these in the community, or face the community alone. As Daniel states “Your family die while you are inside, you lose contact, you lose everything really; everything.” The men were also aware of the problems they faced as ‘returning strangers’ and regaining a position of authority within the family after no involvement.

7.4.2 Erosion of Identities and Missed Opportunities

The men considered what life opportunities they had missed during their imprisonment. Those who had been imprisoned at a young age expressed concern at missing out on what they perceived as the ‘normal’ activities such as having a girlfriend, settling down and perhaps starting a family: “Having a girlfriend and doing the other things that a normal 20 year old would do. I have missed all that” (Leo). “I suppose having a steady partner, *or any form of partner really*. I got no kids. I don’t own anything, a car or house. I spent 22 years in prison and when I get discharged it will be more or less the clothes I stand in and a small bag of property” (Harry)

The phenomenon described as ‘behavioural freezing’ (see chapter 3) was confirmed by Harry: “I am 46 now, but I’m still the 24 year old that came in.” Daniel considered that his family were locked into a pre-prison time frame whereby they still perceived him as a younger man: “my family don’t understand that I am not 24 anymore. I am 40 and have calmed down a lot, I just want to sit and relax with them I am not energetic as I used to be” (Daniel).

The ‘father identity’ caused distress for five men. The acknowledgement of being away from their children during the MLS became relevant during their time in open conditions. They were trying to rekindle the contact and prepare for release via home leave:

The hardest part will be seeing my daughters again. I am their Dad, *but I don’t feel like I am a Dad and that’s the worst part*. She was nearly one when I came in. She visited for a few years. It’s been over six years now since I have seen her. I don’t feel at the moment that I have a right to discipline them or stuff like that, because, I haven’t been there [silence] (Zachary his emphasis)

Non-involvement in family life was seen as a severe price to pay. The helplessness the prisoners felt can be seen in the following narratives, bringing to life the pains of imprisonment:

...When things happen at home and you are in here, you are like a fish out of water. You can’t do anything, you talk over the phone, but people are standing around you. You write a letter and you might get an answer back once in a blue moon, or, even a visit. But it may be months before you find out what is going on (Henry)

I just sat in jail for 14 years watching my children grow up without me and you can’t do anything about anything that is going on for them. I can’t wait to see them when I like. They have to travel what, hundreds of miles for what an hour in a room with eyes on them. It wasn’t their fault. It was mine. I had removed myself from them because of what I did (Ben)

Confronting the offence impinges on their position as a father, particularly when their victim was a relative. Prisoners who expect their families to manage and accept these situations can be placing them in an unacceptable position. Accepting that families will and do move on in life without them, and reconciling themselves to the fact that their imprisonment is not convivial to family life outside, can result in the decision to sever contact. There may be no explanation as to why the decision was made: “When I first got sentenced they were writing to me. After two years they stopped... I used to worry and worry as to why? Now it doesn’t bother me” (Archie). Accepting the estrangement,

Archie, like three other prisoners in this study, had to face the sentence alone. From this man's perspective, the impact of indeterminacy, the nature of the offence, and the label murderer are contributory factors that significant others and the men use when severing contact.

Deliberately ceasing visits was initiated by one prisoner as a means of protecting the family from those designated a spoiled identity: "My children were coming to see me. When I got to Shepton I stopped their visits. Once I realised who they would be in the room with. I didn't want my kids with all those schedule ones" (Ben). Jack, although a sex offender also ascribed spoiled identities to others: "I stopped them visiting me. *I didn't feel comfortable* seeing them in this environment". Jack was dealing with his recall at HMP Blaine, a sex offender prison. His estrangement was a means of protecting his family as much as reconciling himself to the identity he was ascribed. The above narratives have demonstrated that the prisoners although ascribed individual spoiled identities (either by themselves or others) also attribute contextual ones; whereby the whole group is labelled.

The men who had maintained family contact also considered the impact on their families and themselves in the community should they return home. As found by Jamieson (2002) the men considered a fresh start away from home areas the best course of action for all concerned:

I have moved 300 miles to resettle. Partly because of victim issues...I am not concerned for myself because I feel I have done wrong and I deserve for something bad to happen to me. That is the way I look at it. But me partner and family they don't deserve to go through that (Zachary)

... I got to think of me mother and other victims...who wants to see somebody walking the street who has committed a crime against their family member? I don't want that for them. Plus I don't want to come back into prison again. So if I can keep out of harms way I will (Henry).

Henry as a sex offender (and like the seven other sex offenders in this study) feared for their own safety in the community and the public perception and actions of their being free people; the prospect of managing co-existing identities in this context was difficult. Henry had experienced the wrath of other prisoners during his early imprisonment. He had scalding water thrown on him; his position in the hierarchy of deserving and undeserving prisoner confirmed (see chapter 6). Oliver's family were targeted and endured violent attacks in their home community as a result of his offence.

Three men claimed to be 'loners' prior to the commission of the offence. Two of these men were sex offenders. Sex offenders had the additional problem of ascribed derogatory identities. Concealing their identity was a means of self-protection; in doing so it added to their isolation: "...I found it very hard to trust people, being in prison charged with what I am in for. I found it hard to open up...I wouldn't allow anyone to get close...I just assumed that they are going to stitch me up because it happened in the past" (Jack)

Jack, like other sex offenders, had to consider creating a prisoner and lifer identity that engulfed the sex offender identity. When in open conditions the sex offender identity becomes prominent as the men re-engage with life outside, particularly during preparatory re-entry experiences such as work. It is here the spoiled identity is either concealed or revealed. In such circumstances, the men employ techniques that Goffman (1959) refers to as self-preservation in order to portray themselves in a more positive light. The dramaturgical process Goffman describes has two main sites of interaction, frontstage and backstage. Stage management, or information control, is the process where the individual chooses to conceal certain information. Concealing the offence (see section 7.7) is one recourse: "I don't know about every other lifer, but to me it is live and let live...I am serving my time, I don't want to ask what you have done, I don't want to know because that might change my perspective of you..."(Joseph). As Jack states "...it was a pretty lonely experience when you think about it".

Seven of the men stated that during the early part of their sentence they withdrew and became socially isolated. However, in many cases the men looked to other prisoners for support throughout the sentence and, in doing so, have confirmed the existence of a 'lifer community.' Sam, distanced himself from all outside contacts to avoid the emotional impact on himself and others claiming: "I stopped writing soon as I was arrested, I have had no visits". Rather than socially isolating himself Sam drew on the support of his peers to reconstruct his identity as a lifer.

7.5. The Lifer Community

The notion of a lifer community became evident from the men during interview. The lifer community was one that identified them and ultimately estranged them from other prisoners. In the early part of the sentence, the first stage prison did this both physically

and emotionally: “It was all lifers on one unit in the Scrubs. We was all in the same position. There was no arguments. Everybody knew where they stood” (Daniel). The perceived homogeneity of this community maintained some form of order within establishments for men like Daniel. Lifers have been seen to be stabilising influences within prison establishments. They have been used as ‘unofficial police’ to maintain order as ‘their release depends on good progress’ (Coyle 2002:30). Three prisoners confirmed this position acknowledging that lifers were seen in this light during the early part of their sentence and perceived as maintaining order among other prisoners. In some prisons lifers were used on reception to greet new prisoners: “...you got some lads ...two-three years first sentence and worried about how they’d cope. You turn round and say look mate that is nothing I am doing life. That tended to break it for them” (Henry).

The continuation of ‘lifer’ friendships is discouraged by staff when in open conditions and after release. The prisoner is expected to shed this identity, and any connections are viewed with concern by the authorities. For the prisoner, the relationship has been a primary source of coping with the sentence and substitute support networks for pre-prison family and friends. The men found that some lifer peers were a source to be trusted and to turn to with matters relating to themselves and their sentence. The prospect of severing such contacts in open conditions was not viable: “I could talk to them about things, I trusted them. I wouldn’t have got through this sentence without them. I shall still see them outside. I don’t care what the statutory agencies say” (Ben). The identity formed by some prisoners, including Ben¹³⁶, had been based on the nature of the offence and the prisoner classification (see chapter 6) they adopted as a means to cope with the sentence. In prison some MLS prisoners have a status, kudos and respect due to the length of time they have served. In the community this is reversed and diminished, and the concept of stigma and spoiled identities may become more evident. One professional suggested the following: “...it is a question of identity. In here you are a big fish because of your offence but in the community you are just someone society wants to put in the dustbin because of your offence. You are small out there, but big in here” (Edward-Probation Manager).

Belonging to the ‘lifer community’ in open conditions had the advantage of providing support from peers and the disadvantage of alienating from other prisoners. The choice of

¹³⁶ Ben had created an identity of being a murderer of a paedophile.

who to choose as a 'friend' in open conditions is considered in terms of the nature of offence and the risk the friendship poses. Henry strongly believed that lifers should have a lifer only open prison: "Lifers coming to open conditions have more dangers... They have so much more to lose... Fixed term prisoners do not understand that. I feel that it would be ideal if we had like open and kept separate, it is so dangerous for us if caught with anything".

Only one prisoner, Leo, was adamant that he had never been part of a lifer community during his sentence and his time in open conditions was used to prepare himself for life outside. He was effectively reconstructing his identity as one where the MLS and indeterminacy were minimised:

...that is the difference with me. I don't adapt with the lifer prisoners in here. I adapt with the people that is doing normal sentences. I know a lot of the lifers here all clone together – I don't really bother with anyone to be honest with you. I don't want to be in that – ... *negatives*. A lot of people are negative I find with lifers honestly. You must have spoken to them and found out a bit about them... some people think I am doing like a short sentence and I have to tell them I am doing life.

The men who see themselves as belonging to the lifer community considered their relationships as meaningful and indicative of the identity ascribed them. Alfie claimed a bond existed between men who have murdered and who had been through the same courses and therapy. The relationship between lifers was based on the understanding of the uniqueness of the MLS: "we have nothing to do with anyone else. We stick together. It is the best way" (Wilf). Noah added to this by explaining: "We don't mix with other prisoners. They just can't get their heads around the way we think". Two of the prisoners noted resentment from other prisoners: "...we are seen to have more resources directed our way which other prisoners resent. They think we are getting a good thing. We aren't. We got this indefinite sentence hanging over us, whereas, fixed termers got a date at all times" (Joseph). "You are given different things to normal prisoners. So therefore you are resented by other prisoners" (Isaac). In closed conditions lifer relationships provided support, a coping mechanism against indeterminacy and estrangement:

My friends we meet up in the lifer community time and time again in different prisons. We pick up where we left off. There is people I hang round with here that I was in Gartree with. We was a bunch of nutters then. *But now, we are all going out on home leaves and wanting to get out of prison* (Noah).

In open conditions, Noah is indicating the reconstruction of the lifer identity into a pro-social model by refraining from inappropriate activities - rebellion, withdrawal, and confrontations - whilst still maintaining his associates from anti-social times. Wheeler (1961) maintained that mixing with other prisoners at this point would prohibit such remodelling, but this may not be the case. Noah's affinity with the lifer community has not stopped him making progression at this point. The lifer identity in this case appears to be successfully managed and co-exists with a pro-social identity necessary for progression and ultimate release. Any reversal to anti-social behaviour prohibits these goals.

The prisoners considered their lifer identity and found it advantageous in terms of making life easier for them, as other prisoners respected their time inside: "It is a bad crime. They don't understand that part of it. Because you have done a long time they respect you for that. *But they don't understand that it is nothing to be proud of* (Daniel his emphasis); and negative in terms of their isolation and why they were inside in the first place: "...they creep around you, don't get close to you, because they think you have murdered one person you are going to murder everyone else" (Isaac). Developing the theme of isolation, Toby considered how his notoriety and offence impacted on him in the early days: "Some prisoners look at lifers in awe, ...I was seen as dangerous so other lads wanted to prove themselves up against me as I was seen in a hard light, when, in fact I wasn't like that... hence I put myself down the block."¹³⁷

The confirmation of a lifer community indicates the formation of friendships. For some prisoners friends were replaced by acquaintances; both served to ameliorate the pains of imprisonment. Seven prisoners declared that you could never have a friend in prison: "You don't ever have friends in prison, only associates" (Joshua). The formation of meaningful relationships was compounded by the moves, the indeterminacy of the sentence and assigning an 'other' identity to prisoners. These prisoners advocated that they developed associates. Recognising that imprisonment had forced them into company they would not choose to keep on the outside was part of the decision to have associates rather than friends. The formation of associates also helped retain a pre-prison non offending identity: "...To be honest with you, it may sound snobbish, but because I have never been in trouble before never been in prison, a lot of the people I have met, I wouldn't associate with

¹³⁷ The 'block' is prison slang for the segregation unit/ punishment cells.

outside. So I take them as associates not as people to confide in or want to see again” (Henry). They were effectively ascribing a spoiled identity to other prisoners. It was also a means of concealing the spoiled identity of ‘sex offender’. Toby used withdrawal as a technique to remove himself from other prisoners. He used Rule 43¹³⁸: “I felt like a freak; people accusing me of sorts of stuff. I had to keep myself away from them. So I requested to go down the block”

It is generally acknowledged, yet seldom spoken, that long term prisoners, regardless of their pre-prison sexual identity, can become ‘custodial homosexuals’. The deprivation of physical contact and intimacy can result in the formation of homosexual relationships. Joseph considered his own experience of intimacy:

... I don’t know about friendships, but you can get very deep acquaintances ...very deep and intimate... then they go to another prison and you don’t see them again...I have met up with people I was very close to later on in my sentence and we had the same sort of thing again...you have a bond...I had to work through whether I was gay or not.

One of the other ways men developed, maintained and reconstructed their identities was through activities. The following section will consider what the men did during their MLS up to and at the point of interview.

7.6 Work and Educational Experiences

Undertaking education, work and hobbies had been used by the men in closed conditions as a means of coping with and adapting to life imprisonment and lessening the pains of imprisonment. They are a way of alleviating boredom and filling time; such activities contribute to the formation of the ‘prisoner and lifer identity’ (see Table 7.1). In undertaking these activities the prisoner is developing and managing co-existing and intersecting identities. He acknowledges his loss of freedom and his MLS identity, whilst at the same time is attempting to retain and develop some aspects of his pre-prison identity. Undertaking ‘paid work’ was one of the ways the prisoner was able to retain, to an extent, his ‘masculine work identity’. Joshua was able to continue for a while in his pre-prison trade: “I worked on the works as a plasterer, until I got moved to Kingston. I was a plasterer on the out”. Some men used their transferable skills from pre-prison and earlier

¹³⁸ Prisoners at risk on "normal" landing/wing locations are often referred to as "Rule 43's" as they could be segregated under the terms of this rule for their own protection. They are most likely to include sex offenders, informants, debtors and ex-police or prison officers.

prison experiences with regard to employment: "...working with special needs disabled people is all I have ever done since I left school. I am qualified for this. I have done this in every prison I have been to" (Wilf).

Table 7.1 Activities Undertaken in Closed Conditions

Activity	Catering	'Manual work'	Gym Orderly	Delivering Education	Attending Education	Hobbies
Number of men	4	2	2	1	5	4

Working was cited by all prisoners as a means of reducing the boredom of imprisonment and as a way of regaining some aspect of autonomy and self-respect in an otherwise totally controlled environment. Three of the men cited work activities as a way of maintaining their mental health: "I changed jobs every now and then you got to keep your mind busy. Otherwise depression sets in and that is the start of mental illness" (Daniel). It has been well documented that work identities are generally stripped when men enter prison (Sapsford 1983). However, work identities are a high and prized priority for men in open prison. They mark the potential for release, although at HMP Shaw limited opportunities were available.

Undertaking educational courses served similar purposes, as cited above. Four of the men used education as a means of making up for lost time: "I left school with nothing, never really went to school when I got into drugs. So I used education inside a lot" (Ben). "I was introverted would stay in my cell and read up to six books a day....I got into education and the teacher convinced me that I could get an O level. I passed English and got a grade 'B'. That gave me such a boost to my self-esteem" (Joseph). However, moving from prison to prison disrupted the education of prisoners, particularly those who were waiting to start a course that could have assisted with their future careers: "I was just about to start an NVQ in hairdressing, then I was transferred to Grendon" (Billy). Fifteen of the men had no educational qualifications prior to imprisonment. Sixteen men developed their education during their time in closed conditions (see appendix 10).

The men who had spent the most time in prison were the ones who continued to use hobbies. This could be indicative of institutionalisation, or due to a lack of opportunity or affinity for work or education: “I did model making, anything to do with wood. It was a time killer” (Isaac). Like other studies of long-term prisoners, many of the men produced items such as portraits, models and sculptures of a high quality demonstrating the ability and talent they had. Activities provide a welcome respite from the mundane prison life, allowing a meaningful existence. They also provide a protective identity as the prisoner can be seen by peers in terms of the talents he possesses, not his offence.

Regaining a meaningful place in society becomes a realistic prospect when the men are in open conditions. Their earlier custodial experiences of work, hobbies and educational provision are considered in terms of what use they will be in the outside world. They had previously provided opportunities to reconstruct an identity such as ‘student’, ‘artist’, ‘intellectual’. Oliver, like many MLS prisoners in the system, attained a higher degree. The formation of these identities reconciled the spoiled identity of murderer. The purposefulness of such activities enabled the prisoner to have a semblance of life-course activities, albeit disrupted. Using their skills and talents such as artwork was a form of escapism from the reality of imprisonment. Throughout their time in closed conditions, the hobbies they developed exemplified their status as lifers, separating them out from other prisoners. The move to open conditions and their impending release into the community sees a shift in the focal point of these activities. Hobbies are undertaken after work as a means of relaxation; they are no longer a central feature of their identity. The dominant identities the men created in closed conditions are compounded when at open prison as they attempt to manage identities. As Wilf states: “...as a lifer you stick out like a sore thumb, particularly when you have your work on display in your cell, everyone just knows you been in forever”. The men suggested that their prison work, education and hobbies did little to prepare them for the transition into the community and gave them few skills when they experienced community work placements. They felt they were not equipped for employment when eventually released: “You work on the servery dishing out food, under the control of the prison officer. If you was lucky you might get a job in Woolworths doing this with school leavers. It don’t teach you much else” (Daniel).

The older men reflected on missed opportunities: “I suppose I have missed *seeing what I would have done with my life*” (Archie his emphasis). The men considered their advancing

years in terms of how productive they were and could be: “I don’t know if it is age or prison, but if you keep a man in until he is 60 the vim and get up and go has got up and gone” (Sam) Billy expresses his fears thus: “...the clock is ticking... If I’m not established soon after getting out I’m in trouble. If I get a job I want to be happy with it. I don’t want to work in a factory or stack shelves in Tesco. You have got to keep your hand in. Serving a life sentence doesn’t allow for that”.

The difficulty of finding suitable placements for lifers was apparent and the opportunities in many cases ‘created’. The men were aware of the situation: “I think it is difficult to employ that many people ...here. They do all they can. I go out to work now, only down to the village hall, there is prison staff there. ...*It is nice working out but you are still with other prisoners so all you do is talk prison politics*” (Sam - my emphasis). With limited placements and opportunities for lifers they will be at a disadvantage when competing for valuable spaces against lower risk determinate prisoners at HMP Shaw. The opportunity to manage co-existing identities as a forerunner to release is hampered in situations like Sam’s, where the prisoner identity remains prevalent. The experience for Isaac during the 1970s was very different: “I had a nice couple I was working for, painting and decorating the house; they would put dinner on the table for me and a few cans of beer. Yeah it was like a family”. The era Isaac experienced typified the rehabilitative and welfare model as opposed to risk management. The narrative is indicative of a time when prison placements were more personalised and risk and danger did not permeate every aspect of the prisoner’s life.

For men who had been incarcerated for many years the opportunity to mix with what they described as ‘normal’ people was one that engendered trepidation. The recognition of spending time being controlled and regulated meant the new opportunity would require a degree of autonomy and responsibility. The men imprisoned at a young age considered this alien to prison life which had devoured their formative adult years, denying them the opportunity to undertake life-course activities such as the preliminary process of applications, interviews and work: “It is an all new learning curve being responsible, trying to stand on my own two feet” (Jack). In considering the prospect of life in the community, the men recognised the disruption imprisonment had caused them in terms of life-course. Jack was particularly perceptive:

...Life will be a lot harder, for me, it will be just the start of the life sentence...prison is the easy part, the hard part will be getting out there and living a normal life again...Finding a job is not easy for most people, add my situation to that....I might as well be a new born baby starting life over again, because everything has changed for me since I have been in prison.

Three of the prisoners interviewed were still working within the prison and had not experienced work outside of HMP Shaw at the time. Oliver found the experience of having autonomy exciting and fearful:

My first job here was cleaning the gatehouse, which is actually outside of the prison gate. I said at the gate, I am the new cleaner and she said ok off you go. *I was walking outside actually outside of the prison. It was weird. I got used to it fairly quickly but there was always a little thrill as I walked through the gate to the house.* (His emphasis)

Disclosure is a necessary requirement when undertaking work outside the prison. The identities the prisoner has developed, managed, maintained or destroyed will become an issue for his and others' consideration in this context. The impact of time served is a reminder to him and those outside that he is still a serving prisoner and a quasi-free person concomitantly. Living with a criminal record prohibits many from participating fully within society (Social Exclusion Report 2002). Gaining employment is a constant difficulty, despite resettlement agendas and initiatives such as 'Releasing the Potential Workforce.' Criminal records are barriers to employment. When faced with disclosing murder,¹³⁹ the problems are magnified.

7.7 A Veil of secrecy: Concealing Spoiled Identities

The offence committed by the MLS prisoner will remain of paramount importance during his time in the community. He will be expected to disclose the nature of his offence to potential employers and significant others such as future partners. Some were reluctant to do this: *"I don't know why you have to tell people you are a lifer and you have committed murder"* (Sam.) The difficulty such disclosures incur are problematic, not only for the prisoner but also the staff. HMP Shaw works with a number of organisations and workplaces who accept men from the prison on a regular basis. The prison is therefore experienced in the art of disclosure. What became evident from the interviews, particularly with prison officers, was how such information was received by the

¹³⁹Under the Rehabilitation of Offenders Act 1974 some criminal convictions can become spent or ignored after a rehabilitation period, although they remain on the Police National Computer. The sentence of life imprisonment never becomes spent and will always have to be disclosed.

community and how problematic this issue was. There was a tendency for staff to use strategies of avoidance with regard to these issues; such a strategy was the use of a ‘veil of secrecy’. The true nature of the offence is often too difficult to comprehend, and the spoiled identity cannot be allowed to consume life outside. The strategy of disclosing a partial truth to potential employers appeared acceptable to the staff. Finite details, such as gender and age of victims, were withheld. Isaac, having served his MLS decades before, remembered that he was: “supposed to disclose, but you couldn’t really afford to, my Mum and Dad were working there and got me the job, I didn’t want to make any ripples for them”

I know it is a terrible thing, but don’t tell him what your offence is, just tell him you are doing life for murder. Because, realistically, if you say you are doing life for the murder of a child or the rape and murder of an under 10 yr old, they are not going to employ you. It is as simple as that. Because you wouldn’t employ them and I wouldn’t, if you got children of your own, no chance (Hugh – Prison Officer)

Oliver (although newly arrived at HMP Shaw, and yet to experience working in the community) had clearly been a recipient of this approach and information. In coming to terms with this attitude, his therapeutic identity was compromised. His honesty and taking responsibility by confronting his actions were reversed:

Being out there is actually about lying. In terms of the community...work colleagues all those sort of people. I have to lie to them ...I am being told... I have to be dishonest about where I have been and why...I can’t turn round to somebody I have been working with and say oh yes I have just done 23 years in prison... for murdering a young woman. It is not appropriate...Fred has been saying I have been working for the MOD so I can’t talk about my past... *Resettlement turned round and said I need a cover story, a simple one that I can remember; they liked this one because it is simple. I am not comfortable with that* (his emphasis)

The spoiled identity becomes one which has to be concealed, in order to protect employers from any fear associated with the prisoner, and the prisoner from any repercussions from the workforce; such collusion aides the formation of co-existing identities which are easier to accept and more comfortable (for some) to work with. Such complicity ignores the potential safety of any children who may visit the workplace. The prisoners are not subject to any sex offender registration at this point as they are still serving prisoners¹⁴⁰. It is therefore the responsibility of the prison to ensure public protection whilst men are working outside of the prison. The intention according to Hugh (Prison Officer) was not to deliberately deceive, but to give the prisoner an opportunity to shed the ‘spoiled identity’.

¹⁴⁰ Sex offender registration pertains to those released from custody.

In shedding the spoiled identity, a co-existing identity is ascribed. The strategies discussed above become prevalent when assessing risk and danger (see chapter 6). In Oliver's case, he would need to 'degrendonify' prior to formulating his disclosure. The Grendon identity which permeated everything Oliver said in interview could alienate him from mainstream society. His use of therapeutic language and his dissembling of thoughts and feelings could prohibit his integration making him even more of an 'outsider' in the community.

The prison plays an important role in the initial disclosure to employers and has a standard letter which is used. The letter states the index offence on the understanding that it supplied solely for the manager of the business; a picture and prison contact details if issues arise or further information is needed. This technique eases the process when the men actually start the work placement and provides them with an opportunity, or not, to elaborate on the minimal details given. It was not one used by all prisoners: "I tended to give them the worst first and then try and explain it later. I said I have been in prison. I am a life sentence prisoner. I have killed a woman...and then said this is the way it happened...But I knew I was talking to people who had already heard disclosures" (Joseph).

Archie recognised how, even though having a good job and being afforded trust in his position, the spoiled identity remained prevalent. He also demonstrates how prisoners attribute spoiled identities to others:

...he knew I was a lifer, I wasn't a sex offender... my boss asked me about the offence, I told him, he said no problem...I work with children which is great...I am not a sex offender, if I had been I wouldn't be working in the community for £240 a week. The boss knows who I am and other staff are good as gold like, but you are still, even though I am working out... five days a week *I am still labelled a murderer (his emphasis)*

The prison is accomplished in placing prisoners into work placements. They have been able to build up relationships with organisations supportive of rehabilitating ex offenders, such as the Shaw Trust¹⁴¹. Placing prisoners within charity shops is a popular choice for lifers in open prisons. Ben considered this experience:

I felt really proud of myself I had gotten somewhere to work, with these women who didn't know about me, who gave concern for my well being, when they didn't

¹⁴¹ Shaw Trust is a national charity which supports disabled and disadvantaged people to prepare for work, find jobs and live more independently. There are currently 36 Shaw Trust Charity Shops in the UK.

have to. It could have been a hell of a lot worse. They walked me through the process. I knew there were times when it was visible to them (my time inside).

The impact of time served is a reminder to him, and those outside, that whilst experiencing freedom he is still a serving prisoner.

Toby a sex offender also had experience of working with the Shaw Trust. He claimed “I was working with five women and they loved me to bits. *They knew what I was in prison for*” (my italics). Toby did not clarify with me exactly what he had told them. In this narrative, if Toby fully disclosed the depravity and magnitude of the offence he is confronting his spoiled identity. He gives further evidence of managing co existing identities by recounting his initial experience of going out to work: “It was scary. I was... with people who hated me. They saw me as a paedophile, when I am not. I said to them look if I was would I be working where there is kids? I reasoned with them.”

All of the men who had undertaken work in the community, either voluntarily or paid, at HMP Shaw or from time in other prisons, confirmed the sense of pride and excitement they felt. They considered these experiences to be meaningful and gainful employment opportunities. However, Ben was also very aware that the language he used and his persona spoke ‘prisoner’ to the outside world. The impact of imprisonment was evident for staff in respect of language. Some prisoners at HMP Shaw had on arrival taken on the ‘mores and folklores’ (Clemmer 1940) of the closed prison. A recurring theme in interview was the perceived inability of prisoners to shed the prisoner identity in their dealings with staff and civilians. Prison ‘speak’ had become so entrenched it impacted on progression in the community. Prison officers in particular acknowledged that Prison Service culture and ethos (historically) was in part to blame for this situation in the way prisoners were once addressed by officers:

prison parlance is picked up in closed conditions... the Prison System is at fault ... discipline is part of this... they can attend courses but it is different in real life when they have to put it into practice, some of them forget they are not still in prison and well this comes across in the way they speak to people out there, and they don’t like it (Grant – Prison Officer)

The use of language (shouting, swearing, short sharp retorts) was viewed as most problematic when the prisoner was outside the prison and in his dealings with employers and colleagues. The years of using particular forms of jargon and intonation were difficult

to shed and impeded the acquisition of a 'quasi-free identity'. The ability to take on co-existing identities for these prisoners is questioned in Grant's narrative and, in part, confirmed by Ben's account (see above).

The identity of murderer was also considered in contexts where fellow workers did not necessarily have an affinity with ex-offenders. Billy found the reaction from workers very different to Ben:

Sometimes I find the attitudes if you are working vary from being standoffish or very curious. Especially women, for whatever reason, no offence like... they want to know all the gory details...I don't know if it is morbid curiosity, or lets face it, you don't often work with a man or woman who is serving life for murder....

Other prisoners considered the difficulties they would face obtaining work in the first place, given the nature of their offence, and used Irwin's (1970) conception of stigma in describing their concerns regarding the prejudices they could potentially face: "I have heard of other lifers that are on the dole, and I wouldn't like to be like that...finding jobs, it is having that stigma attached you are a murderer, without them knowing or understanding the circumstances" (Zachary). "I don't honestly think employers will understand, bloody hell, you have killed somebody after all...you got that stigma to carry" (Alfie). This was also illustrated by Daniel:

I know I am going to be facing a lot of prejudices. But I am used to that in prison anyway. Well like every time I go for a job, an interview, I got to tell them that I am a lifer... that I committed a murder. So what chance really have I got of getting a job, by say someone else ...whose not got a criminal record (Daniel)

On entry to the outside world the prisoner has to accept that he will be making his sentence and his offence public. It is at this point he considers how his identity as a MLS prisoner impacts. How others see him is an important part of how he will see himself. It is during the process of disclosure that the past takes on a meaningful existence in the present. The narratives produced by the prisoners leave little doubt of the guilt, shame and stigma they perceive attached to the label and the relevance of this when they consider their future prospects and disrupted life-course. There was a consistent theme across the interviews. The men wanted to be seen as who they considered themselves to be *now*, not for who or what they were at the time of the murder. They did not want the public to be fearful of them and they did not want to be seen primarily as a murderer: "I want people to take me for what they see, not for my past, but who I am now. I have made some very grave

mistakes in the past, I don't want people to say that is the whole of me, I am a different person now" (Joseph). The evidence from the interviews is suggesting that the MLS identity is more problematic for them in the community than in the open prison.

The way society portrays, perceives and penalises murder impacted on how the men thought about themselves and their interactions with others. An added compunction was that of being a sex offender. Societal reaction to sex offenders is particularly intolerant. Eight of the men in this study were classed as sex offenders. Receiving the MLS can be likened to Goffman's concept of 'stigma' a discrediting attribute. The stigmatised person's social identity is 'spoiled' according to Goffman (1963). Irwin's (1970) conception of stigma considers stigma operating at two levels, the subjective, and stigma management. The arrival at open prison and the expectation of entry into the community demonstrates these processes. The narratives produced raised a further question; is it possible to work in open conditions with men who have murdered and see them as anything other than a murderer.

7.8 Perceptions on the nature of the offence

The distinctiveness of the murder, I have argued, has been fundamental in the construction of the MLS prisoner. The difficulties facing staff within open conditions are how to balance seeing the offence with seeing the person who is preparing for release. The results produced by the narratives indicate dilemmas and contradictions. The professional is guided by his/her agency and professional (official) discourse, whilst at the same time relying on their personal (unofficial) discourse to make sense of the situation:

I just see them as people. Although they have committed horrendous offences usually. I don't see any prisoner as anything other than a person...When you speak to people outside they go 'how can you work with murderers and rapists... well yeah they are people like you and me. They have made a massive mistake...you know the reasons behind making that mistake that is where you should really start to look... We just try to deal with them the best we can (Jonas - Lifer Manager)

I have dealt with so many different types of prisoner over the years. I worked with Peter Sutcliffe¹⁴² and others who have committed the most terrible crimes imaginable to man. I see working with these prisoners as a challenge. I have seen some of them at the start of their sentence and am seeing them again now at the end. *Some of them are the same people I knew at the start* (Grant- Prison Officer – his emphasis)

¹⁴² Known as the Yorkshire Ripper after killing women commencing in the 1970s.

The above quotes indicate from a staff perspective the difficulty of shedding the prison identity; the identity that is linked to the offence. The official construction used initially is that first and foremost the MLS prisoner is viewed as a prisoner and this identity could not and should never be shed. For some, professional distancing becomes evident: "...the prisoner is a prisoner and that boundary will not be crossed by me... I am a professional manager and they are here to serve a sentence...sorry if that sounds cold that is just the way I have been trained" (Sophie– Education).

The official versus unofficial dichotomy also emerges: "I don't stereotype them as a lifer or he's a 'whatever' and I don't let the thoughts of his case influence me" (Jonas – Lifer Manager). Jonas's narratives indicate how some professionals avoid ascribing spoiled identities within their everyday practice with MLS prisoners. Men, who had been through a therapeutic community, a place where they were seen first and foremost as people, illustrate this:

...this officer came up to me to take me to the unit, he is like, you must be *Jack*, and he says pleased to meet you and I am like what is going on? He starts to explain everything and it took about four attempts before it registered. Before I realise he wants me to introduce myself by first name and shakes hands...He is saying look we treat you all with respect and humanity...I will never forget it. I had just stepped out of Whitemoor with people who were never getting out of jail and I had just stepped into Grendon (Jack)

The skills needed to identify that the prisoner is a person, as well as a prisoner that needs monitoring, can add further contradiction; this becomes evident when examining prisoners gaining independence in the community, as Alfie stated: "*you still have the stigma of being a lifer, a killer*" (his emphasis).

7.8.1. Considering Relationships

So far within this chapter the prisoner interviews have focused on past relationships with families and significant others; those who knew why the MLS was given. This section will consider how their identity as a MLS prisoner would be received if and when they entered into a relationship with a new significant other on release. Sam considered this: "I mean... you have to tell your spouse or girlfriend you are a murderer [long pause] and I struggle with all of that...I find it a bit strange and I probably won't be doing it." The prospect of disclosing their offence caused anxiety and concern: "if I want a relationship, I mean a meaningful one I got to talk about the past...how will they react"? (Jack). They feared

repercussions and recall and generally concluded that such relationships were too costly in terms of their freedom:

I don't want emotional involvement with anyone. ...but if I were to get immersed well she would have to be a pretty strong character, because I would have to tell her the truth from the off. But there you run a risk, six months or a year down the line. For whatever reason... if the other person is vindictive they could get on the phone and say well he has threatened me with violence and the next thing is that I am doing a recall. I don't want to be put in that situation (Billy)

Henry considered the impact of the enormity of his own offence. He realised that, outside of the prison environment where his private will be public, other people may not be prepared for this knowledge and would need support. The abnormality of his future life and the constant reminder of the identity of murderer were evident:

You have to know what is appropriate to say and what not to say. How much a person can take in and how much they can't ...If I did meet somebody ...and I had to disclose fully what I was in prison for, the way I would do it is to make sure that it was in a place like me sisters house. Or, one of their families, so they have somebody to turn to if they needed (Henry)

The concept of co-existing and intersecting identities and their management can be considered in terms of conforming, or rebelling, against the requirements of the authorities regarding disclosure. Making such choices was seen by some staff as self-responsibility and for others highlighted the complexity of trying to shed the prisoner identity and regain a quasi-free identity. Noah did not inform the authorities of his relationship with a woman or her pregnancy:

J: Why didn't you tell them she was pregnant?

Noah: Why? Because it is none of their business and because lifers here are moved out for the silliest things. And you just think can I risk it and I worked it out that the baby was due on 29th May and I was going to be released in March so what would have been the point?

Noah's partner lost her baby and he decided to flout prison regulations and the terms of his licence by travelling outside of the agreed parameters and visited her in hospital. The resulting action caused him a further loss of freedom:

I got pulled back from me home leave, they tried getting me arrested in [City] and then I just got a knock back on me parole. And that was already six months ago. ..So God knows how long this knock back is going to be. So it could have cost me a year, for not going to work for half an hour.

Noah's original offence was not linked to women or children. It is useful in the wider context to consider why he did not seek permission by requesting a visit due to extenuating circumstances or compassionate leave; both indicative of a sense of responsibility in terms of accepting responsibility for, and showing concern to, his partner. The route he chose highlighted the complexity of living within official boundaries and the process involved in making a case for a visit that may have been refused. The two identities that unfold are one of regaining a quasi-free identity and all that entails in terms of relationships and life in the community; the other that of a MLS prisoner. The two contradict each other as ultimately they focus on legalities and risk, actual or perceived, and the management of co-existing identities. Noah's decision was considered by John (Senior Manager): "he was recalled and now is going to spend a long time in prison, and yes, he is sick about it...all his hard work previously counts for nothing". Noah made two further decisions shortly after this incident. When he was knocked back again for release, he absconded. After months on the run he was recaptured and returned to closed prison; within a few weeks he committed suicide.

7.9. Conclusion

The formulation of identities through therapy and prison programmes has been discussed within this chapter. Such interventions are twofold, managing risk and providing rehabilitation - the latter no longer being the dominant discourse within criminal justice in England and Wales. The purpose of such intervention is to ensure that offending behaviour has been addressed and the prisoner is working to reduce any danger he may pose to the public. Enforced compliance with courses was viewed by the men as a route for progression. There are similarities with my research and Hudson (2005:79) in that the men in her study felt that they had to participate in interventions and courses (although deemed as voluntary), Hudson's sample knew that if they refused it would not fit well with the Parole Board. Hudson's participants, like Alfie in my research recognized how 'talking the talk' dominated courses.

This chapter has demonstrated that some resist, some are subdued and some 'play the parts' accordingly; all part of the possible trajectories of the MLS. The courses they have to attend indicate a specific identity, spoiled, and as such are reinforcing these identities. The ethico-moral reformulations they underwent or pretended to achieve became part of managing intersecting and co-existing identities. Within open conditions, the focus on

managing risk is paramount and the continued use of course work indicates the concerns held by staff and the resentment illustrated by the men. In contrast, the men found through therapy at Grendon an opportunity to consider their spoiled identities and to come to terms with who they were prior to the MLS (and ultimately form co-existing and/or intersecting identities). Theirs was a painful voyage of self-discovery undertaken as a result of murder.

The previous life experiences of the men have also shaped the identities they manage in prison. Those who had childhood experience of institutional care approached imprisonment in a similar way. These men suggested they could integrate into the norms, rules and regulations of imprisonment; already having experience of being cast as an 'other'. The loss of family relationships and friendships constitute the pain of imprisonment and the construction of identities as a coping mechanism. Cessation of contact has generally been considered to be a means of coping with imprisonment (see Farber 1944). This research indicates that such actions are also part of the management of complex identity formation as exhibited by the co-existing (front) or the fully embedded intersecting identity, both of which present a spoiled or unspoiled self and ultimately impact on their family (and future relationships).

The men in this study confirmed their families were the 'punished innocents'. For some the lifer community compensates for loss of family and friends outside. The disruption of the life-course provides insight into the challenges facing the men on release. How they make up for lost time when they are out in the community will be framed within surveillance, monitoring and control. Their ability to shed the lifer and prisoner identity will contribute toward their success in terms of reintegration on the one hand and be their downfall on the other, should they fail to comply with supervision. The impact of indeterminacy and how this is managed also impacts on shedding prison cultures. Wheeler's (1961) reformulation of the effects of imprisonment, and the idea that the prison culture can be shed near release, has been contradicted by most of the narratives of prisoners and staff. The men who are most successful at shedding the prison culture are those who most ably manage co-existing identities.

Disclosing the nature of the offence was considered in this chapter alongside the inherent difficulties of establishing relationships of both a work and intimate nature. The difficulties of living with a spoiled identity and managing such identities in public were

approached in differing ways by both staff and prisoners: concealing and fore-fronting. It is here the men will experience acceptance and/or rejection in the community. The narratives of the prisoners show how, predominately through therapy, they are able to make public the nature of their crimes; staff within HMP Shaw were less practiced.

The men were in a state of liminality. They were consciously aware of the need to manage their spoiled identity in the context of quasi-freedom within the community and, as a MLS prisoner, within open conditions. The successful management of spoiled, co-existing and intersecting identities within these contexts will contribute to their ultimate release. The men are facing many challenges in open conditions; it is a new frontier. Within this situation they will have to consider the old boundaries of time in closed prison and the impact indeterminacy and identity, pre-MLS, had on them; in doing so they are trying to currently manage their identity as murderers within open prison and the community.

We are political pawns, we get moved around that board whenever it suits them...we are used for vote winners...” (Jack)

Chapter Eight: MLS Revisited

8.1 Introduction

The argument throughout this thesis has been that the MLS has had political interest since its inception, resulting in the legal differentiation of the prisoner. This in turn has impacted on the identities of these prisoners. The crime of murder continues to generate interest in public and political debates and consequently the sentence is questioned as to effectiveness, retribution and punishment. It therefore appeared appropriate to consider how the men subjected to the sentence considered these factors and how they themselves would approach sentencing grave crimes. Their perceptions depict how they ascribe identities, spoiled or otherwise, to themselves and others. The ascription of identities is a means to manage co-existing and intersecting identities within the confines of life imprisonment and beyond. The key theme of this chapter is the participants’ perception of the MLS. Further to this, the aim of this chapter is to demonstrate the complexity of trying to understand the MLS from those who experience and manage it.

The men in this study had spent the duration of their sentence under the influence of the ‘Executive’ (see chapter 1) which ensured they lived within the confines of continued uncertainty and indeterminacy - an underlying theme of this chapter. The chapter comprises three parts. Firstly, I will examine the political prominence of the MLS from the prisoner’s perspective. The discussion will address the deservedness of the sentence. I will then make reference to, and critically examine, the chronological frame and sequence of events for the prisoner from sentence to release, thereby considering the three stages of the life sentence as outlined in chapter one. In doing so, this chapter will reflect on the issues elicited in chapters one, six and seven. Secondly I will address the difficulties facing staff working with MLS prisoners in open conditions and examine the training they receive. The chapter will end with a discussion on the final stage of the life sentence – life on licence.

8.2 Politicising the MLS – Deservedness, Review and Abolition

The MLS represents the unacceptable act of murder. The demonisation of the crime ratifies political consensus on law and order. Therefore the MLS was, is, and remains attractive to politicians, the media and the public. Replacement of the MLS with a determinate sentence is avoided because it lacks the symbolic significance of life imprisonment. The prisoners

in this study were aware of their status as political tools and how they were used within the debates for law and order:

I have nearly been in prison for 20 years now. But in all that time the one I thing I have noticed, whenever they start clamping down on other things it always affects the lifers. .. the easiest way to describe it, lifers in jail, they are like a political prisoner...because when you have all these elections going on outside, like general elections, it is always the same. Let's clamp down on the crime bill, let's clamp down on the murderers. Let's do this for sex offenders, let's do that for killers... the murderers. We are used every two to four years ... to win a few votes (Jack)

Given Jack's perception of being a political tool, it is interesting that no prisoners mentioned their inability to take part in the electoral process (see chapter 1). Prisoner votes, particularly those who have committed the most serious of crimes, remain unworthy, particularly if political damage is to be avoided through public outrage and pressure groups: "You take away the right to vote of your victim when you kill them, so why should you have the vote"? (Lyn Costello¹⁴³ Telegraph 30/03/09). Most men in this study shared these sentiments, believing their crime of murder stripped them of any right to life, participation or inclusion: "I took a man's life so therefore my life is forfeit – end of story" (Billy). A sentence perceived as deserved.

Whilst some of the men felt they deserved to have the MLS, others did not. The undeserving lifer from this perspective was one who felt he should have been found guilty of manslaughter. Six men in this study proffered a manslaughter plea and one denied his involvement. For staff, acknowledging and accepting the crime was intrinsically linked to how the men made sense of the MLS: "A lot of them see it that they should be punished - they know they've done the crime" (Jonas-Lifer Manager). The difficulty for staff in managing and supporting the MLS prisoner comes when the prisoner maintains his innocence: "we've had the odd one or two that are adamant that they are innocent and that makes it a little bit more difficult. For all we know they could be innocent" (Jonas – Lifer Manager). Joshua is a case for example here, being charged with co-defendants: "I didn't do it; they all know who did, yet I am serving this sentence taking the blame for them". The prisoner who maintains his innocence will be resistant to interventions designed to change (see chapter 2, 7); he is precariously placed in both closed and open conditions, particularly if he wants to be considered for release.

¹⁴³ Lyn Costello from Mothers Against Murder and Aggression.

Some prisoners demonstrated evidence of the deserved and undeserved sentence whilst incorporating justifications and excuses that linked with their own offence, as is illustrated by Wilf:

Well it depends on what *type* of crime, there is *domestic murder*, there is people who hates their wife or *father* and mercy killings... “I was in for killing my father, an argument, because he was a right bastard. He was always beating my mother, so, in the end I just snapped and everybody in my home town knew what he was like... I was made very welcome there. They knew what kind of a man he was. But it shouldn’t have happened. But it did.

The possibility of being charged with manslaughter as a lesser offence was attractive to some prisoners:

I pleaded not guilty to murder but guilty to manslaughter. As soon as me solicitor came back and said no you have got no chance they are going for the murder – I resigned meself for doing a life sentence because he explained to me as I was carrying a weapon I had intent.. (Daniel)

Manslaughter was a preferable option; a more acceptable spoiled identity. Manslaughter acknowledges diminished responsibility and, for some men, the ‘claim’ of diminished responsibility and the potential for mental health intervention accommodated justifications and excuses:

... I was taking drugs; drinkingI killed a friend of mine.... People regarded me as being highly dangerous because it was a motiveless attack ... I would have been better off being sent to hospital. A bloody nut house, for two years to sort my head out and come to terms with what I done... I thought I would get manslaughter..(Alfie)

The above quote contains excuses and justifications in the form of alcohol and drugs being blamed for the actions. Other prisoners like Toby, considered the possibility of ‘insanity’ as a preferable spoiled identity and conspired with others to try to attain mental health detention:

...I thought of what I had done and thought I had to be mad. So I spoke to some people in Wakefield prison that had been in nut houses, and I said look I think that I need to go to a hospital and they started telling me how I could go about it... So I started speaking to people like a probation officer first, then psychologist, *and telling them all this stuff they [other prisoners] had told me to say...* I was still young and naïve and I was listening to people that were older than me and I was telling them all this stuff that wasn’t even true about me.

Toby’s narrative is indicative of the despair some men felt at having been given a MLS and their need to alter their identities on the one hand, and reliance on the experience of

their newfound peers on the other. Retrospectively, Toby acknowledges the image he presented of himself was and remains contrary to how he wished to be viewed.

Being found guilty of manslaughter would have provided all of the prisoners in this study with an opportunity to deny their culpability and serve a different sentence. The deservedness of the sentence was framed in terms of what they saw as the difficulty in defining murder and manslaughter:

Leo: In some ways, some people deserve to have a life sentence. No shadows of a doubt and I think that there is a fine line between murder and manslaughter... I am remorseful for my victims. I didn't mean to hurt or injure anybody. Well it was an accident – it was a panic more than anything, [pause]. In some ways people shouldn't be doing a life sentence they should be doing a manslaughter

J: is that what you think should have happened to you in your case?

Leo: yeah I think it should have been. But I have taken the life sentence on and coped with it now as best I can. [Pause] I was hoping not to get life. But I did and it was a shock

The attraction of the manslaughter plea for the men in this study can be attributed to the avoidance of a MLS and stigma associated with the label which, in turn, impacts on their ability to manage their co-existing and intersecting identities in the most positive way throughout the sentence.

The Law Commission Review (2006) (see section 1.5) highlighted the difficulties in determining the most appropriate form of punishment for murder. They deduced such punishment should be the MLS. The inherent difficulty of defining what sentence is appropriate became evident from the responses of some prisoners, and the continued differentiation of deserving and undeserving prisoner remained encased within spoiled identities: “For murder life is appropriate... the life sentence for atrocious crimes. Those who meant to do it...Life for life should apply... life should be for bad people” (Ben). Some prisoners attributed deservedness to high profile cases: “People like Myra Hindley they deserved a life sentence” (Joshua). Others firmly embraced the spoiled identity: “Then I realised prison is the best place for people like me scumbags. Murderers like me” (Ben). Others found it easier to adopt an ‘offence blind’ approach. Such an approach served two purposes; concealing their own offending identity, and, not exploring and assigning a highly stigmatised identity on others as that would make living with them and themselves more difficult. Jack’s quote illustrates these points:

I try and not judge other people. The only difference between me and other prisoners is the length of time I have served. My crime is a little bit more serious. I used to judge people and give in to peer pressure but now I don't. If I did that here... take a close look at people ... scrutinizing people and making judgements I would end up flipping. Because I would see a lot of nasty things out there that I don't want to see (Jack)

Chapter two considered the shift from rehabilitation to risk management. Some prisoners, when considering alternatives to the MLS, indicated that risk management upheld their MLS. They also demonstrated how a unified perception of the self is problematic. In order to make sense of their situation they draw on sometimes contradictory discourses:

Well I killed somebody for no reason. It was motiveless and for that society is going to punish me. ...People regarded me as highly dangerous because it was motiveless which you can understand from their point of view... So I have no problems with me life sentence (Alfie)

The following section will discuss what the prisoners and staff considered a suitable alternative to the MLS.

8.2.1 Alternative Sentences for Murder

Joshua, the only prisoner who had continually denied his role in the offence throughout his sentence, stated that the indeterminate sentence should be abolished; "I think a fixed term sentence should be introduced". Other men in this study considered fixed terms of imprisonment for murder. However, the views they proffer have to be considered in the context of still serving an indeterminate sentence, and the knowledge they have accrued regarding other countries' legal systems: "Europe have shorter sentences, they realise it is detrimental to mental health; here it is bang the fuckers up" (Alfie). The prisoners' lack of understanding of what takes place internationally (see chapter 1) can be attributed to what I term 'the grass is greener syndrome', where any other situation is better than the one being experienced. The staff considered the length of sentence in terms of whether the prisoner could be supported on release: "Lifers who are doing 30 years, if they do get out? What support mechanisms can you give them"? (John – Senior Manager). The concerns raised by John are relevant to many of the prisoners in this study. Other prisoners considered determinacy in terms of the impact of indeterminacy. I have discussed in previous chapters the potential devastation caused to the 'self' by serving indeterminate sentences and the ramifications regarding rehabilitation:

Keeping someone inside for 20, 30, 40years... It is detrimental to a person. I know for serious crimes you got to have long sentences, but you need to be able to rehabilitate, you got to be able to change yourself....If you can't do that in say ten or 12 years then you never will...If you can't move past a certain point you will regress. Then there is nowhere else for you to go...You should have goals set for you and serve so long and no more. You should go free on that date if all these goals have been achieved (Jack)

In considering what would be an appropriate determinate sentence, Jack was not alone in thinking ten years: "Doing life is hard... The longer you keep people in the more institutionalised you get and the harder it is to get back into the community as a *proper person*.... a ten year sentence, make sure all the work is done in ten years... (Daniel)

Some staff and prisoners within this study considered capital punishment as a preferable alternative to life imprisonment:

When I was on remand they was talking about bringing back the death penalty this was in 1986¹⁴⁴ ...And I didn't have a radio at this time and the lads shouted out the door 'they have brought back the death penalty' and I clenched my fists and went 'yeah' I thought I was going to get killed... I wanted to die (Toby)

Jonas (Lifer Manager) considered the option of voluntary euthanasia as an alternative to whole of life sentences (see chapter1). The concept introduced by Jonas in the quote below shifts the emphasis of responsibility for decision making onto the prisoner, thus easing the personal and professional discomfort associated with working with such prisoners: "If you got somebody that is never going to be released then maybe they should be given an option... if they are never going to get out, always going to be a massive risk to the public so that is why they will never be released, why are they being kept alive?" (Jonas – Lifer Manager). Other staff considered capital punishment in terms of deserving and undeserving prisoners: "I think a sex offender... I don't think he should get a life sentence, I think he should be 'bang off you go...capital punishment'" (Hugh-Prison Officer). Such views could indicate that prison officers in HMP Shaw are ill prepared to work with MLS prisoners in open conditions (see section 8.5). This is further illustrated by another prison officer: "if you are used to dealing with determinates¹⁴⁵ who have done less serious crimes it can be a bit of a shock working with lifers" (Andrew-Prison Officer). Acknowledging the emotional impact of the crime committed by the MLS prisoner was perceived by some professionals as being contrary to the organisational culture of prison officers; a sign of

¹⁴⁴ Reinstatement of capital punishment continued to be periodically debated within parliament no less than 19 times from 1957- 1989 (Morris 1989:274).

¹⁴⁵ Prison terminology for prisoners serving a fixed length sentence.

weakness. One prison officers would not want there own peers to be aware of in a formalised manner:

I think some of the people here who have not worked with that type of prisoner it has affected them more, and even though counselling is offered, I think especially for prison officers...it would be common knowledge that they were going to HMP Blaine for counselling and that is why they don't do it. It is still a cultural thing (Grace –PSO)

The staff interviews demonstrated how the offence becomes intrinsically linked to how the staff respond and interact with prisoners. Experienced prison officers such as Charles openly admitted that the nature of some of the offence still causes difficulty. “With some of these crimes you can never really get your head around them...”

In contrast some professionals would not ethically or morally consider capital punishment “I wouldn't be as severe as the death penalty, because I don't agree with that” (Grace-PSO). Others based their narrative on a belief in the ability of the person to change as a result of the interventions provided - drawing on a rehabilitation discourse (see chapters 2, 7):“I don't think hanging should be brought back ...I do believe that people should be given a second chance and the opportunity..... to address.... their offending behaviours... I do think the MLS is right” (Amanda – Psychologist).

The accounts produced by the prisoners considered rehabilitation. The notion of being given a second chance did not sit comfortably with all of the prisoners. The enormity of the crime they had committed weighed heavily on some and their views on capital punishment were elicited:

I thought you killed somebody whatever the circumstances shouldn't have the right to live your life. You should be killed. You shouldn't have a second chance that is what I felt at the beginning and still do now. The prison system tell you- you deserve another chance and sometimes you don't feel like you do. (Zachary).

I am pro capital punishment. *If I had my way I shouldn't be sat here now I should have been dead 23 years ago...* and I won't shake from it... I got no compassion. There is child killers and Christ knows what, put them against a bloody wall and blow their brains out cos you can't cure them incurable. [Pause]... I am very old fashioned that way, an eye for an eye a tooth for a tooth. (Billy)

The above accounts are indicative of how the prisoners considered the gravity of their particular crimes and, as a result, have internalised particular types of deserving identities. As identity is not fixed, the particular responses given during interview would be

dependent on how positively or negatively the men felt on that day and the dominance of any of their intersecting identities— those most integrated into the self. However, it must be acknowledged that, for some, co-existing identities, which present a front could also be at play. The gravity of their individual offences and the subsequent remorse and guilt felt by the men appeared not to have diminished as a result of continued imprisonment. In some respects, the uncertainty of the sentence and how it would be, and consequently was, served had compounded their views on the futility of the sentence. The following sections will consider how the men served the three stages of the MLS.

8.3 ‘Stage One’ the Process of Life

The commencement of the MLS can be one of the most daunting and incomprehensible periods of time facing the prisoner in terms of the length of time he will serve and where he will serve his sentence. This section will consider these two aspects of stage one. I will attempt to demonstrate how the MLS differentiated these prisoners in terms of their unique political position. Within chapter one I discussed the history of tariff setting and ‘Executive’ involvement, highlighting the (historical) uniqueness of the sentence. Although executive decision making was removed in 2002, the men in this study were subject to this involvement for the majority of their sentence and had limited knowledge of the changes in the system, as their narratives reflected: “I think that they keep prisoners in too long. I recognise that there has to be a punishment for committing murder...but I think it should be taken out of the politician’s hands for certain and left in the hands of the judges” [sigh] (Sam). Sam remained located within the ‘old framework’ under which he had originally been imprisoned and had progressed by sanction of the executive. The length of time Sam had served (see table 5.3) had, in some respects, left him frozen in time and mindful of a system to which he forfeited his life to the state in return for the murder he committed.

I explained within chapter one how the tariff setting process was not undertaken in open court, a situation that was experienced by eight prisoners. For example, Harry said “I served four years before I knew that my tariff would be 14 years”. The sentence length was decided under a shroud of secrecy and the MLS prisoner had no understanding or information pertaining to how the decision to set the sentence length was made: “It wasn’t explained everything was done under the official secrets act” (Joseph); thereby confirming their identity as ‘different’ to other prisoners and their need to know their sentence viewed

by the State as of little importance. A further confusion for the prisoner was coming to terms with the length of sentence in relation to their specific murder: “To have somebody sitting up in an office and have no comprehensions of you, your victim... to make a decision about how much that life is worth that has always fuddled me a little bit [Peter’s] life was worth 15 years...” (Sam).

The uncertainty with regard to how long the prisoner would serve formed the basis on which he commenced his sentence. He may be second guessing what the executive considered to be most suitable or reliant on his more experienced peers or staff: “I was sitting talking to a wing governor and saying to him...do you think it would be realistic for me to do 10 years, because people had been talking and saying that was the average... he was saying to me well no not really it is likely to be a lot longer” (Oliver). Approaching a sentence of such magnitude with limited knowledge of their sentence length, or where it would be spent did little to promote the rehabilitative ideal for Oliver. He considered this first stage in terms of stagnancy: “I just sank into the background at HMP Wakefield I must have been there for 12 years or maybe even longer” (Oliver). Oliver’s quote is illustrative of the insignificance he appears to be feeling at this stage of the sentence.

The impact of serving a MLS is beyond comprehension for staff. When asked ‘how men make sense of a MLS’ the question proved difficult for staff to answer. The incomprehensibility was particularly evident in the following quote:

It has to be horrendous I have to say that. They struggle to come to terms with it. Keep their head down to keep sane. It is different for all of them. *I don’t know how they deal with it. I can go for a walk and clear my head if things are bad, they have to go back to a cell, a confined area. I don’t know how I would cope with that. I don’t know how they cope...*” (Edward – Probation Manager– his emphasis).

The prisoners are expected to conform, comply and ultimately change their behaviour to meet the expectation of staff as the sentence progresses. The presentation of self has to be one which is positively construed by staff in order for progression to occur. The men have no autonomy in where they can go or what they can do to alleviate the frustrations they feel regarding imprisonment and their uncertain future. The admission by staff, of such incomprehensibility exemplifies the devastation experienced as a result of indeterminate sentences and the isolation associated with imprisonment. Such powerful messages need to be considered in the context of staff training (see section 8.5).

All the men stated that little if any information was made officially available to them; the mystique of the sentence permeated the early years. They reflected on what information they had been told regarding where they would go and how long they would be detained in a given establishment: “I was told that I had to go through a lifer programme which meant some time in a dispersal prison...and that I would most probably do about three B cats and then I could go to a C cat and then work my way up to cat D” (Archie). Other prisoners had slightly more information: “They gave me an idea... for each prison probably between two and a half to three and a half years...” (Daniel). Table 5.3 stated the number of prisons each man had resided in during his MLS. The discussion in chapter seven illustrated the impact on his identity indicating the problematic nature of identity maintenance and the consequent destruction of identities. The impact for and on his family was also examined and discussed.

All of the prisoner interviews disclosed that the main way the prisoners found out about the sentence was through seeking out and asking other MLS prisoners:

They didn't explain anything when I was first sentenced and that would have been in 1981. They never said what the sentence was or anything like that. If you wanted to find out anything you had to find it out yourself, yeah, through other prisoners those who had *done a long time* I used to ask (Wilf)

The men were sentenced at a time when limited information was available in open court - one of the major differences between the MLS and DLS for many years (see chapter 1). The reflections of the prisoners need to be considered in terms of their philosophical connotations. The men stated they had limited information on the sentence. It would be naïve to accept that information was not made available. A more plausible alternative is their lack of comprehension due to the enormity of receiving the sentence at the time. The men may have later chosen to receive information from their peers as opposed to prison staff. Information from this source may have been viewed as more trustworthy.

Peers could have been viewed more positively than prison staff, particularly in relation to information regarding living with indeterminacy. Indeterminacy, was considered by staff as setting the MLS prisoner apart from others within the open prison.

8.3.1 Indeterminacy: A Prisoner Set Apart

Indeterminacy sets the prisoner apart from others in terms of time and staff perceptions. Five men in this study believed initially that they would remain in prison until they died.

Post tariff detention embodies indeterminacy and risk; both concepts will be examined from the perspectives of the prisoners and staff within the following sections. In chapter one I discussed the problematic nature of determining what a life sentence is. The concept of 'life' and indeterminacy had, and will continue to, generate debate in law, policy and practice in general, and for the men subjected in particular: "I was seen by the judge...he said to me life does not mean life...you will be given every opportunity to get the help you need and you will *probably* do no more than five years" (Toby)

At the time of his interview Toby had served 20 years. Life, meaning 'life', for Toby was becoming an increasing and unpleasant reality in terms of recall to closed conditions and lack of insight into his risk (see chapters 6-7) Toby was unable to rationalise the logic of his continued detention, due to a loss of faith in a system designed primarily to contain and manage risk as opposed to providing rehabilitation and reform - both factors compounded by indeterminacy. The situation Toby and other prisoners in this study experienced were captured in the case of Doody:

...the words which the judge is required to pronounce do not mean what they say... although everyone knows what the words do not mean, nobody knows what they do mean, since the duration of the prisoner's detention depends on a series of recommendations... (R.v Home Secretary ex parte Doody 1994 549H-550B)

The prospect of continued and prolonged imprisonment being determined by others was recognised by the men. They considered the need for change and how this change had to be interpreted by others in order for progression to occur: "if they become a model prisoner... the chances are they will be released and become a valuable member of civilization again. If you want to misbehave and be bad, then you can literally spend the rest of your life in prison..." (Harry). Developing this theme, Noah can be seen to have internalised the hopelessness of indeterminacy and rationalised his life sentence in the context of justification and deservedness, and a means of self protection in the event of continued imprisonment: "If you sentenced me to 20 years and I knew I would get out...what would the incentives be? I probably would have changed, but I have had to tow the line... because you never know if you are going to get out".

Acknowledging that the MLS prisoner had been in the prison system for a very long time elucidated a specific form of recognition from staff, in terms of how they interact and

communicate with the prisoner, and how time becomes a defining theme which is indicative of the ‘prisoner set apart’, as demonstrated in the quote below:

You have a different way of speaking to them and helping them ... You get to know them more. ...they have a bonding with staff who were there when they come in and some remember the staff and will say ‘do you remember Mr Smith when that happened when we were in HMP [City]. So they got that rapport to draw on. For them it is still fresh in their minds like it wasn’t so long ago (John – Senior Manager)

If we are together or go out together we are on first name terms. I don’t do that with determinates, I wouldn’t call it *respect* but I realise they have been in prison for a very long time... (Hugh - Prison Officer)

Time, from staff perspectives, indicated the MLS prisoner was different from the short-term prison population. For the prisoner, time was a more complex process. Time was not finite and was not approached or considered, as most of us would, in terms of what we do or want to do, on a daily, weekly, or monthly basis: “you just get a shift in the perception of time it takes on a whole new meaning...years roll into one. Years mean nothing...” (Oliver). For some staff the hopelessness of indeterminacy was not negated: “...The tariff may be set, but there is no guarantee they will be out by then or after... They make more demands on you because of the uncertainty about ever getting out” (Grant- Prison Officer). Others felt uncomfortable with differentiating prisoners due to the length of sentence and were hostile¹⁴⁶ in their responses; choosing to adopt ‘official speak’.

We regard lifers as no different from any other prisoner in the education department. We work with them professionally, with all our prisoners, and hold no differentiation between them. No differences. All prisoners are treated to fair and open provision regardless of length of sentence (Sophie - Education)

Sophie’s response can be considered in two ways. The reluctance to engage in the concept of a ‘prisoner set apart’ could be due to promoting diversity and equal opportunities. Or the nature of the offence is too difficult to comprehend, as was acknowledged by other staff in this study (see section 8.2.1). The unwillingness of Sophie to consider the differing needs of the MLS prisoner presents difficulties, particularly in the context of risk management, spoiled identities and living with co-existing identities on release. During his time at open prison, the MLS prisoner will be considering the most appropriate education programme to engage with, and how this will assist with future employment. Within this context the nature of his offence must be at the forefront of professionals’

¹⁴⁶ As derived from Diary entry after interview.

thoughts as this will preclude him from certain occupations, alongside the intervention of those monitoring him. Some staff considered these dilemmas:

Well this lifer had a university degree... he came here with the expectation of going into teaching while still serving a life sentence. I had to work with him to lower these expectations and aspirations. This teaching wasn't going to happen. Not here or on release. He took it well. I did not want to set him up to fail I want him to succeed, but realistically... (Grant - Prison Officer)

Indeterminacy raised issues of a moral and ethical nature and a personal (unofficial) versus professional (official) dichotomy emerged. For some staff, working with MLS prisoners, posed this dilemma quite acutely:

...you can see some people, you think *why is he still here?* You know he has done everything, you have known him for two and a half years, and you think to yourself, what else does he have to do to prove himself? He has jumped through all the hoops... if it was up to you, you would release him. With others you think, *what is he even doing in cat D he should be in cat B...* people who don't deserve to progress shouldn't and people who do...should be afforded that opportunity and not stifled and held back (Jonas Lifer Manager)

The complexity of the MLS made little sense to staff in terms of how the tariff was set. It was viewed as problematic with regard to 'fairness', particularly in cases where prisoners had gone beyond the tariff as was the case for 12 men in this study. MLS prisoners within open conditions will continue to test and challenge the staff working with them, particularly if resource allocation favours determinate sentence prisoners. The complex nature of living and working with stage two of the life sentence will now be examined.

8.4 Stage Two– Post Tariff Detention

Post Tariff detention for the MLS prisoner is based on the risk of him committing a further imprisonable offence. Within chapter one I considered how the political emphasis on post tariff detention swung from the risk of committing a violent offence to the risk of committing an *imprisonable* offence, therefore reconfirming that dangerousness was not the only determinant in the continued detention of MLS prisoners. The continued detention of MLS prisoners post tariff needs to be contextualised within the dominant discourse of risk management and (from the perceptions of the prisoners in this study) retribution. The progression to open conditions is indicative that they have been considered 'safe' by the Parole Board and should be encountering opportunities to reintegrate within society. However, as can be seen in the above quote, staff do not always concur with the progression. Twelve of the men in this study had served beyond their tariff; viewing their

detention in terms of risk and punishment: “I am 14 years over tariff, haven’t they had their pound of flesh yet?”(Joseph). Given Joseph’s classification as a sex offender the work of Hawkins (1983) is relevant when considering post tariff detention. Hawkins (1983) claimed that ‘moral evaluation is the central preoccupation of the parole board member. It acts as a precipitating definition, recasting other designations of items deemed “relevant” ...the meaning attached to... *concepts such as “rehabilitation”, “response to treatment”.... “change” are contingent upon the moral status of the prisoner*’ (1983:113 original italics) Joseph’s return to closed prison for possession of pornography may be indicative of this position.

For Oliver post tariff detention was considered in terms of risk management:

I would say that because I took a young woman’s life then obviously I have to be in prison... until people are satisfied that I do not pose any further risk to anyone else and until I am satisfied with that as well... The tariff means nothing... it is far too easy to run over tariff... if you don’t grasp things like me...you see people’s lives just drifting by... Getting out doesn’t matter to fixed termers ... he will still be released, lifers have to do the work- there is just no end to it (Oliver)

At the time of Oliver’s interview he had served 23 years of his MLS. His tariff was set at 12 years. He considered his continued incarceration to be due to his risk and inability to comprehend what was expected of him. The indeterminacy of the sentence is highlighted in Oliver’s narrative. The prospect of release in the initial stages of the sentence is untenable for some men if they are to cope with the sentence; therefore strategies unrelated to future time are adopted (see preceding chapters); “if you expect a time you could literally drive yourself mental” (Harry). When considering post tariff detention the prisoners reflected on their continued imprisonment in terms of undertaking the work asked of them: “...if you reach your tariff and you done what was asked of you, and you towed the line ...I say they should release you. I mean why am I five years over tariff? I have no idea” (Sam). “I think people should have sentences where they can be maybe kept in prison for the rest of their lives if they are not doing what they should be doing and looking at themselves. Why am I still in prison? I cannot work that one out” (Toby).

Within chapter seven the prisoners spoke of their participation in courses and therapeutic communities and how, as part of these processes, they constructed identities and considered their ‘self’ and their life experience pre and during the MLS. From the perspectives of staff prisoner typologies were considered (see chapter 6), highlighting the

move of men to open conditions before they were ready in terms of risk and management - contradicting the perceptions of the prisoner. Sam like other men in his situation remained over tariff in part due to a lack of resources in the community a situation that caused staff concern:

We have men here that we can't move on. There is nowhere for them to go; particularly those with mental and physical health issues. Prison isn't the right place for them but neither are hostels. Where is? We sort of become like an alternative social services and that isn't right either (Grace- PSO)

Sam was acutely aware that he was being detained due to lack of appropriate places for him in the community, over-stretched services and the impact of his continued position as a MLS prisoner post tariff:

...I am down here, down in HMP Shaw and I gotta resettle in [City] [long pause], I cant transfer... because they are overloaded with people already [pause] [City] County Council has ... duty of care or something, because of my mental health so I have to go back there, but they can't fit me into the *hostel because I am not high risk enough [sniggers]* Now if I was a sex offender they could take me? I think I should have been well on my way to release even into a hostel, maybe ...a flat somewhere... trying to make something of meself. I think that six years ago that was much more realistic for me to be able to do than it is going to be now. [Pause], I suppose I am turning a bit angry at the system, and it is making no sense to me.

The frustration that both staff and prisoners feel with regard to continued detention post tariff was evident in the interviews conducted. Any outward display of anger exhibited by prisoners would add to the continued detention and potentially backward moves to closed conditions. None of the prisoners denied that they should be punished for crimes they had committed, but alongside this some also considered how this punishment could result in the adoption of an uncomfortable identity - that of victim - given their post tariff detention:

... you should set it up so that they can get out in a reasonable amount of time...and progressing in a way that doesn't make them feel victimised by the system. Because after a time, I noticed that I was feeling like, hold on a minute, do I keep going for this carrot and be hit by the stick all the time, by all my knock backs... you do feel victimised... so I have to keep reminding myself time after time that I am not the victim. I knew who my victim was and all ...who were affected by my crime. Therefore I am not a victim (Joseph)

The continued pressure of indeterminacy is not conducive to the emotional and psychological well being of either staff or prisoners. The prisoners remain in limbo unaware of how, or what, to do to progress the system. The knowledge, skills and experience of the staff are tested under these circumstances. The complexity of working

with MLS prisoners becomes pronounced in open conditions and needs to be considered in terms of the training undertaken and how this is translated into everyday interaction with the prisoners.

8.5 Staff Training

The core nature of Prison Service training involves basic courses and techniques designed to ‘manage and maintain’ order in prison. The staff interviewed, in particular the prison officers, had vast experience of working within the closed system and some with very serious offenders. Their transferable skills and knowledge enabled them to function in open conditions, which, for some staff, was a new domain. However, it became evident throughout the interviews that the new experience, and consequently new way of viewing MLS prisoners near release, was not addressed in their training. The demands of working with such prisoners and the recognition that they differ from others produced a ‘discourse of deficit’. The findings indicate clear areas of deficit - professional training, which incorporates emotional self-protection as a result of the nature of the offence, and being deskilled by other professionals involved in decision making arenas - both are linked to managing risk and danger. Further to this the decisions made are based on the presenting identities, co-existing and intersecting. Without theoretical frameworks to draw on some staff are impeded from making as informed decisions as possible. I am going to examine the training received by the staff at HMP Shaw in relation to working with MLS prisoners, as taken from the Lifer Training Manual¹⁴⁷ located within the prison. I will then consider the responses received from them together with the views of the prisoners.

8.5.1 ‘The Lifer Course’

The Lifer Course is a four-day course covering the entirety of life sentences. The fourth day effectively pulls the themes together and it is here the open estate is discussed, the time allocated being fifteen minutes. During this time the course participants have an opportunity to consider issues relating to adjusting to the system and the problems some prisoners will face including discipline issues and how to negate risk. The various stages of preparation for release such as ROTL are considered (see chapter 6).

The ability to provide accurate information has been discussed within earlier chapters on matters relating to risk assessment, indeterminacy and life in open conditions. The training

¹⁴⁷ As opposed to the Prison Service Lifer Manual PSO 4700.

staff received highlighted deficits in all three areas. Although risk appears to be prioritised in public discourse, it is not translated into having well trained staff to confidently assess that risk:

I think a more focused approach would help... because a psychologist may say we are looking for this or we are looking for that... *we don't know exactly what we are looking for* so maybe those things could be covered in the training ...if we done that and it was an accredited course then that would give us would give a little bit more backbone to our reports (Jonas –Lifer Manager his emphasis).

I think that it is too general I think that it should be a hell of a lot more training involved with it. Because these are people that are likely to spend anything from 10-20 years in prison or they might be so volatile and have so many needs. I would have said maybe all our lifers [in HMP Shaw] have committed murder and their needs when they first come in will be totally different to someone who has just come in for alcohol related ... (Jonas – Lifer Manager).

From the interviews I found the content of the course revolved around the continual stream of reports that are prepared during a life sentence: “It is totally and utterly inadequate. The training we attended ... *had no bearing on the work we do day to day with these lifers at all*. It taught you how to write a report. That was the only thing that the training offered” (Grace –PSO). Whilst these reports are necessary to ensure progression throughout the prison system, the lifer facing transition to open conditions may be under the impression that their resettlement and release needs are in the hands of well trained professionals: “I have been lifer manager for 13 months and I am still learning now. *It is such a massive learning curve...*” (Jonas – Lifer Manager his emphasis). Other staff emphasized the inadequacies of the training they had received:

The course is completely inadequate it is four days long. The category D side of things is not applicable and makes up the last afternoon on the fourth day. It may have changed now but it certainly doesn't prepare you for the reality of working with lifers and what you have to do, *it is totally inadequate*. You get no training for the tools needed to provide release and have to use your own experience of life (Grant - Prison Officer his emphasis).

From the perspective of the prisoner the changes that had taken place within the duration of their MLS exemplified the difficulties of keeping abreast with changes in the system, and confirm the continued covert political position to which the men were subjected:

Harry: sometimes the ministers come up with a new system and then of course the information you get is passed down... I don't think the staff are fully briefed. So they might, depending on which member of staff you go to get given relevant information. They might tell you something, but usually by the time they tell you it is already out of date, something else had come through [pause].

J: So are you saying that sometimes they don't know any more than you do?

Harry: yeah a lot of times, they haven't got an axe to grind it is not that they are withholding information, *sometimes it is as difficult for members of staff to get relevant information to pass on to you as it is for ourselves to get it* . (my emphasis)

Jack, who had been recalled to HMP Blaine, continued the theme of lack of knowledge and exemplified the difficulties facing prisoners who are subjected to continual changes within a sentence and penal system that is dominated by political whim and rhetoric:

Maybe they need to get more experienced people in certain posts, not the novices that they have. They need to find out information and keep all the lifers up to date with the laws and changes, half of them don't know what is going on. Where does that leave us? They need to be made aware of the changes these changes affect our situation. It will, and does, have an effect on us. They are dealing with *individuals* (Jack- his emphasis)

The concept of the 'knowledgeable' prisoner is consistent with the findings discussed in chapter six. There was evidence that the staff were all too aware that the prisoner had far more experience of his sentence than those working with him: "Staff were not trained here initially. ...a lifer who has been in the system for 12-14 years he is more experienced in prison life than officers (John -Senior Manager).

Despite prison officers having an array of experience, they could offer little expertise or understanding of their work with MLS prisoners approaching release, and were ill equipped to deal with men who had served long periods of imprisonment for murder. The experiences they were drawing from came from their own life and on the job experience, as well as the initial two month prison officer training - training that dealt with issues of security, control and restraint of prisoners. They saw this as the bread and butter work of daily prison life. These experiences were used as a means of covering any personal and/or professional inadequacy in working with and dealing with prisoners facing freedom, to deflect the inadequacy of training and reemphasise the dominant organisational culture and agency:

...You only get 8 weeks training to be a prison officer so in terms to be a lifer officer a week is enough. It is down to your personality ...you know and I suppose at the end of the day if you passed to get in to be a prison officer you should have sufficient skills to deal with anybody (Andrew -Prison Officer)

The lack of expertise afforded to prison officers in order to work with MLS prisoners in open conditions was evident in the interviews undertaken with other professionals:

Don't get me wrong the majority of people who do work with MLS prisoners closely have been in the service a long time so they have got a lot of experience and background knowledge but you still need continuous training no matter how much experience you got, *because as human beings you can become complacent*. (Amanda –Psychologist -her emphasis).

The lack of training was not specific to prison officers within HMP Shaw. The professions of psychology and probation involve on-going training and expertise within a number of domains, including sex offenders, drugs, alcohol and domestic violence. I confirmed with the psychologist if, outside her structured professional training, any lifer specific training across the service was seen as adequate:

There is not enough support for staff working with MLS prisoners, because it is very stressful. ...on any report you are making a decision on somebody's risk level, risk to themselves and the public and when they are getting near to release whether they should be released or not. That is a heavy burden for a lot of staff. I don't think there is enough support, enough adequate training. You get your one week training working with lifers but that doesn't really seem to be updated or ...rolling training (Amanda- Psychologist).

Amanda's comments are also indicative of the isolation and lack of support professionals in open conditions experience.

Some prisoners, as the subjects of risk assessment and reports, on the one hand were discontented with the time staff took to prepare reports. On the other hand they considered that the recommendations of the writers should be enacted as they had the experience: "You do a course and it takes months for them to write a report on you...Everything is geared to making you serve time that you shouldn't really be serving...The Home Office should be listening to the people who are writing the reports, trusting their judgment" (Joseph). The narratives from the staff have shown that they, at times, feel ill equipped to assess risk and make recommendations. The case of Rice (see chapter 2) highlighted the need for accurate assessment, clear communication and lack of subjectivity. Joseph's narrative also typifies the concerns facing the Parole Board and trusting the judgment of the report writers.

The one-week training mentioned above was the only training on lifers available to all staff working in the prison. I was interested to know if the probation staff had any specific lifer training alongside this particular course: "I don't know to be honest because if I was outside I wouldn't be able to work with lifers but I imagine not... In fact our manager has

arranged for probation staff to come into the prison to do the training” (Grace –PSO). PSOs are allowed to work with lifers in open conditions and contribute toward their parole reports and impending release under the supervision of a senior officer. This was not taking place within the community as lifers were classed as ‘high risk offenders’ in the early stages of release and therefore under the auspice of a fully qualified probation officer. The role undertaken within the prison by a PSO is seen as secondary importance to the role in the community; yet the work undertaken pre release is the basis on which the decision to release is made. The interviews with staff took place in 2005- 2006. An unannounced inspection by the Chief Inspector of Prisons¹⁴⁸ was conducted in 2008. This inspection concluded that personnel were not sufficiently trained.

The impact of working with men, who have murdered, as they approach release, had presented many difficulties for staff within HMP Shaw. Within chapters six and seven I discussed how there was disapproval by the local community regarding the placement of MLS sex offenders at HMP Shaw. The MLS sex offenders themselves were not unreceptive to the furore they were causing at the time and how they felt placed within the debate: “A lot of politics are being played by the staff; some for lifers being there, some against it. It is quite daunting really... it felt just like it did years and years ago when I first came into prison, who do you trust? Who do you talk to? You just lost all sense of everything” (Jack). Jack’s narrative highlights the position of men attempting to manage a spoiled identity, whilst engaging with the prospect of living with co-existing identities. The local (and) political pressure the staff were placed under and the enormity of the task of managing the risk of men like Jack in open conditions resulted in staff being under continual strain - a strain that continues when working with life licensees.

8.6 ‘Stage Three’- Life on Licence

The concerns voiced within chapters six and seven regarding life in the community focused predominately on managing co-existing and intersecting identities within and beyond the open prison and recall. The prisoners consider punishment and risk management, focusing on two particular interrelated areas - the life licence and supervision in the community. Two prisoners had experienced life under licence. This section is going

¹⁴⁸ Dame Anne Owers.

to consider these issues from the perspectives of those serving and working with MLS prisoners. The life licence was implemented as a safety measure for the general public. In its original format (see chapter 1) it was designed to protect the public whilst being in the interest of the prisoner. Today it serves the same function, with the emphasis being more clearly located within public protection. The licence is a mechanism not only to control the quasi freedom of the prisoner, but also a device for the continued punishment of the prisoner. Accepting the life licence was considered by some prisoners as inevitable in view of the enormity of their crime, indicative of indeterminacy: “it is fair enough, after all, my sentence is 99¹⁴⁹ years at the end of the day” (Henry). Having experienced many years in prison and developing strategies to cope with the change in identities and perceptions (see chapters 3,4,6,7) the imposition of the life licence was framed in similar terms: “life licence; doesn’t bother me it is just another set of rules and regulations to follow, you get used to it”(Joseph). The impact of Joseph’s 28 years in prison and his acceptance of his loss of autonomy are evident.

Not all of the prisoners accepted the life licence as being appropriate and demonstrated an antipathy to the idea of continued punishment:

... you paid your debt back to society yet they are taking you back on a...licence. Outside you are just as much in prison as you are inside ...Look at prisoners see how they get called back for any little thing.... Why keep you this way? You are better off in prison than on licence (Joshua)

Joshua’s continued incarceration under the MLS meant that he no longer valued the end prize of freedom as the ultimate goal but was quite content to live in prison, as his following quote illustrates: “Prison is prison, there is life out there and there is life in here”. The statements of both Joseph and Joshua are indicative of the acceptance of the loss of functioning as an autonomous human being as a result of serving an indeterminate sentence, as well as the impact of the offences committed.

The interviews with the staff elicited little information regarding ‘life on licence’. The focus of managing and working with the MLS prisoner toward release, it would appear, proved challenging enough. The discharge of the prisoner into the community relinquished prison staff from having any further responsibility. I have within this thesis argued that the

¹⁴⁹ Henry informed me that all life sentences are entered as 99 years on the computerised system. This was confirmed by prison staff.

prediction of risk and who is safe to release is a highly subjective arena. The emphasis on protecting the public can become covertly encapsulated in back door sentencing¹⁵⁰. The result adds to an ever-increasing prison population on the one hand and, on the other, concern from staff over political pressure to release prisoners:

...there seems a lot of pressure at the moment. I suppose political pressure more than anything else because of the overcrowding to, [pause] release prisoners, life sentence prisoners, which for a lot of them would be fine if they had a good degree of supervision and monitoring whilst in the community but I think there is such low staffing within the probation service that it isn't feasible. That is worrying (Grace – PSO)

8.6.1 Supervision: Balancing Care and Control

The changing role of the Probation Service over the years has moved firmly from care to control. The work of Coker and Martin (1985) gave a full account of the difficulties and lack of guidance facing those who, for the first time, would be supervising lifers in the community. Their work demonstrated the inherent difficulties facing probation officers during the 1960s whose roles and responsibilities were changing as a result of working with lifers. Following this the Parole Board (1969:39) recognised the divergent role of the supervising officer:

He must help those who are anxious to make good, by encouraging them to establish positive contacts in the normal community. At the same time he represents authority and must do all he can to protect society against those unwilling, or unable, by themselves, to adjust the ordinary standards of the community.

The prisoner under licence in the community is building on his experiences from life in the open prison and has to maintain the identity of a MLS prisoner under supervision if he is to succeed. Any knowledge, support and guidance proffered by staff while he is still in custody should be extended to him to help him manage this process. The lack of attention from the staff in this study can be attributed to a number of factors highlighted within this thesis; lack of specific training, the inability to dissociate the prisoner from his offence, and the attribution of blame to other agencies in order to make working with the MLS prisoner less difficult for those having daily face to face contact. A compounding factor was, and remains, the growing emphasis on protecting the public. Within this thesis I have discussed the difficulties facing staff with regard to risk assessment and releasing prisoners from open conditions. The relationship between the supervisor and supervisee needs to be based on trust and respect. Within chapter one I considered the difficulties this presents in

¹⁵⁰ Such as the use of recall and post tariff detention.

times of growing bureaucracy, law enforcement and public protection agendas. These matters were not contradicted by prisoners: "...probation is the thing. They have a lot of power over you. Well you can give them power if you drink and take drugs and have your offending behaviour as well. I don't intend to be doing that but you can seem to be sent back for the most pathetic of reasons" (Alfie). The restrictions facing some prisoners were contentious and framed around the propensity to fail given a lack of, or unwillingness to, understand:

...you should have restrictions that should never be denied. I don't disagree with them except the alcohol one. You can't be expected not to touch it in your life ever again... It says not to enter licenced premises. It should state public houses otherwise does that mean I can't go to the supermarket, garage, or corner shop? ...If there is no understanding one of us will foul up. The lifer will come back to prison and probation will not be to blame. That is how it works ... (Daniel)

Ben expressed a differing perspective based on self-responsibility: "I know it exists but it is not all the time. The only people watching me through the rest of my sentence is me, keeping me in check. Nobody can provide more observation of my life than me."

A contributory factor surrounding the concerns of the prisoners when on licence was the acknowledgement of the limited contact they had with their probation officers. All were anxious with regard to this impending relationship. Daniel's narrative below captures two things; the changing emphasis of probation practice during their MLS and Daniel's perception that opinions formed on him early in his sentence have not changed, because from his perspective, little additional time has been invested in finding out who he might be now.

At the start you had quite a lot of contact, they visited you, over the years it just tails off and they change officers, and you don't see them at all. They write reports on what you was like at the start and from what your previous officer said. They don't really know you and you are meant to go out and work with them under that? It is going to be hard

The move from advising, assisting, and befriending offenders by probation officers was formally removed under the 1991 CJA. The MLS prisoner quoted above was fortunate enough to have this relationship in the early stage of sentence. The erosion of autonomy of probation staff and the increased emphasis on managing risk left little room for the continued, and costly, support of MLS prisoners in custody who were then a long way from release (Broadhead 1998). These men now have to re-engage in relationships with a law enforcement agency.

The supervision¹⁵¹ element of the life licence is designed to protect the public and ensure that the released lifer is not experiencing any difficulties with his freedom. The focus of probation officers no longer predominately pertains to re-adjustment, support, advice and guidance; the primary concern is behaviour and the commission of further offences. Isaac received his MLS in the 1960s for the murder of an adult he knew. He was recalled on retrospective sex offences after being unsupervised for many years: “I was off it (supervision) in three years, I was unsupervised for 17 years, but this *one slip* was enough to get me back”. The 17 years that Isaac was unsupervised resulted in several child sexual abuse offences. Isaac viewing this as ‘*one slip*’ is indicative of his lack of understanding of the risk he posed and the emphasis of supervision at that time being rooted in purely in rehabilitation rather than risk management. It is also a minimisation technique to avoid a spoiled identity.

The need for dangerous sex offenders to have maximum supervision on release to protect the public should be without question¹⁵² (see Kemshall 2007). The changes in the law regarding sex offenders have become relevant to the men in this study and take on new meaning as they consider managing a newly enforced public identity:

When I came in, in 1987, the laws were all very different. It has all changed in the last 20 years... now they say I have to sign the sex offenders register, but that didn't come in until a few years back. Yet I have to comply with the new law, one that wasn't there when I offended... I will find that hard to deal with” (Jack)

Jack, like other sex offenders, will not be able to live unobtrusively in the community when he is eventually released. He will have to manage his co-existing identities from the perspective of risk and public protection, thereby adding a further dimension to his identity which formalises and reconfirms officially, within a statutory framework, the ‘spoiled

¹⁵¹ To remind the reader from chapter 1- the current life licence has a minimum supervision component of four years; ten years for sex offenders.

¹⁵² Law enforcement and public protection were highlighted when Multi Agency Public Protection Arrangements (MAPPA) began operating in England and Wales in April 2001. MAPPA places a duty on the Police and Probation Service to assess, manage and contain the risk of offenders in the community. There are three levels of MAPPA; sex offenders and murderers are at the highest level. The MAPPA can recommend an increase in police monitoring and surveillance and authorise the use of closely supervised accommodation and activities. MAPPA is firmly rooted in actuarial justice and managing the dangerous.

identity'. The world that Jack will re-enter, with emphasis on risk management, monitoring and surveillance will be a very different world to that which he left in 1987. His, and others, statuses as sex offender murderers will remain firmly entrenched in political and public debates for the foreseeable future.

8.7 Conclusion

The focus of this chapter has been how the historical political emphasis of the MLS impacted on the identities of the prisoners, and how they and staff spoke about this. I have illustrated how staff and prisoners had little understanding of the logic or mechanics of the sentence. The policy and practice to which the men living the MLS have been subjected was discussed within the chronological sequence of events from their and staff perspectives. The impact of serving a MLS is beyond comprehension for most people in general; staff were no exception. This chapter has demonstrated the uncertainty of living and working with indeterminacy. The prisoners considered the imposition of the MLS and the majority agreed with a life sentence for murder. Some prisoners and staff considered capital punishment - indicative of the damage of indeterminacy and lack of professional training. Experience compensated, to some extent, for any lack of training. Prison Officers, in general, got their experience 'on the job' a common critique when examining professionals within the CJS¹⁵³. The interviews with staff produced data that highlighted the need for a clearer understanding of how to assess and contribute effectively to risk management on the one hand, and evidence of deskilling and lack of training on the other. Neither is conducive to the progression of the MLS prisoner toward release.

The Chief Inspector of Prisons in 2008 identified lack of staff training at HMP Shaw. It would appear that little had changed over the years since my interviews which highlight staff stress, particularly in relation to lack of training. There should be no room for complacency by the Prison Service in terms of providing adequate training for staff in open conditions given the concerns regarding the release of prisoners who have gone on to commit a further serious offence. As risk assessment and risk management is prioritised in public discourse, it is vital that those contributing toward risk assessment have the necessary skills and training to confidently undertake the task. More emphasis should be placed on equipping staff to work with the demands and difficulties facing prisoners who

¹⁵³ Group work facilitators often have little training see Home Office 1998:135. Becket et al (1994:80) Dominelli (1991:74-75) Barker and Morgan (1993 v and 65).

have murdered as they near release, if successful reintegration, public confidence and community safety are to be considered primary goals of open conditions. Once discharged from prison, the prison staff were relinquished from any further responsibility. I consider this to be short sighted. The staff could have made opportunities to discuss life on licence and as part of risk management consider the difficulties of managing co-existing, intersecting and spoiled identities within the community, whilst continuously promoting the supervision process.

"I might as well be a new born baby starting life over again because everything has changed for me since I have been in prison" (Jack)

Chapter Nine: Conclusion

9.1 Introduction

The key area addressed in this thesis is identity as a result of imprisonment under a MLS with a specific focus on open prison. This thesis has demonstrated that identity and policy are linked through the application of an 'identity' and the enactment of 'legal policy' thus creating difficulties, as will be reiterated within this chapter. The argument presented in this chapter and thesis, is that at times, during their prison career in general and in the community in particular, MLS prisoners perceive themselves to be different from other life sentence prisoners due to the unique sentence and the associated label 'murderer'. The MLS journey commenced in 1965 and 45 years on is as contentious as ever as illustrated in the case of Frances Inglis, who administered a lethal dose of heroin to her brain damaged son to ease his suffering. She was found guilty of his murder and sentenced in January 2010. The rationale and mitigating circumstances of this case demonstrate the rigidity of law regarding murder and the inflexibility of sentencing. The label 'murderer' for the men in this study has defined them in the prison system, their perceptions of themselves and other prisoners and how they have been constructed by staff. In the case of Frances Inglis, her prisoner construction will be an 'undeserving lifer' (chapter 6), a desperate mother as opposed to a cold-blooded killer. Her treatment within custody and her eventual tariff¹⁵⁴ will likely reflect the same.

Whilst I chose to weave together the staff and prisoner narratives, it is important to consider within this conclusion the impact of working with MLS prisoners in open conditions and the implications these findings raise. In the introduction to this thesis, I stated that I would draw on my data to argue that the MLS prisoner, as a result of the act of murder and the MLS, in the first instance, forfeited the right to be seen as a person first. This was evidenced in the interviews with staff and MLS prisoners. Forfeiting one's life to the state was enshrined in legislation, 'the pact with parliament' and the abolition of capital punishment (see chapter 1). This forfeiture is then confirmed in the discourse of law, policy and MLS prisoners' perception of practice as indicated in my empirical evidence. Interviews with staff confirmed this assertion, thereby upholding the MLS as the central and master identity both within the prison context and the community. The MLS is the

¹⁵⁴ Her sentence was set at a 'minimum of nine years' outside of the sentencing guidelines imposed under the 2003 CJA as discussed in chapter one.

dominant discourse within the intersecting identities assigned to the prisoner. Staff found it easier to view the men through the sentence rather than as a person, thus, at times, causing conflicting discourses and ultimately, potentially practices. I have attempted to present the men in this study as men first rather than murderers. The personal impact of undertaking this research, as discussed in chapter five has at times, made this difficult. My own difficulties were also compounded by the way some men saw and described themselves. The aim of this study was to examine and investigate how a MLS for murder impacts on a male prisoner's identity. The key objectives were: to examine the MLS – law, policy and perceptions of practice: to theorise and investigate the impact of a MLS through the discourse of professionals and prisoners: to examine how men who have served a MLS for murder approach release: to contribute to prison research concerning the impact of imprisonment on the identity of the MLS prisoner nearing the end of his 'tariff' and debate on the efficacy and justice of the MLS at a time of growing use of indeterminate sentences. These will all be discussed in the following sections where I will pay particular attention to the dominant themes elucidated from the data: risk, indeterminacy, spoiled, co-existing and intersecting identities. Unlike the co-existing identity, the intersecting identity is one which is fully embedded and integrated into the self. The individual accepts and acknowledges it; it is (as far as I could tell) genuine. This research has provided new evidence of how spoiled identities are managed and co-exist in the context of open conditions, re-entry into the community and the associating factors resulting from long-term imprisonment. I will end with recommendations regarding policy and practice and suggested future research.

9.2 Revisiting the MLS

The MLS is a complex aspect of penal policy. The crime of murder in 1965, as today, remains the most contentious and most serious offence - hence the continued justification for the MLS; a specific mandatory, non-negotiable sentence. The sentence has not altered as it serves a specific political purpose; reassuring the public that murder receives the most serious punishment. The differentiation of the sentence for murder, as opposed to manslaughter (also punishable, albeit on a discretionary basis, by life imprisonment) had distinctly placed them within the CJS. In terms of the law the definition for murder is simply intention. It is the underlying features of the act and the categories of behaviour that add complications. Although the definition of murder is simple the divisive implementation and execution of the sentence is far from simple and the experience for the

MLS prisoner differentiates him from others serving life, from the perceptions of the men (as represented to me) up to and beyond the point of tariff. Within chapter one I demonstrated how, despite various committees, recommendations and calls for reform, the MLS has changed little since its introduction in 1965. Regardless of a plethora of criminal justice acts since then, none have resulted in the implementation of any great change. The exception is the change that occurred in 2002 when the Executive was finally removed from setting the 'tariff'. The location of the prisoner within political debates has been peripheral to those of politicians¹⁵⁵, who use the sentence to endorse public opinion concerning murder and the treatment of murderers¹⁵⁶

The MLS prisoner is imprisoned for life on the basis of his crime. Regardless of the circumstances surrounding the murder, the sentence imposed on those found guilty is fixed - unlike the discretionary life sentence which is in place to protect the public from dangerous offenders. The whole of life tariff is imposed in exceptional circumstances. Any Home Secretary could reverse decisions in particular cases. However, to do so would be dramatic and damaging in terms of maintaining political credibility and public support.

The sentence has been steeped in political intervention. The prisoners in this study were aware that they were used as political pawns in law and order debates. Some confirmed the notion of forfeiting their life to the state in return for the crime of murder, but the deservedness of the sentence was questioned by others. As seen within this thesis, some men proffered a defence of manslaughter, using excuses and justifications (Scott and Lyman 1968), to support their claims the MLS was misplaced. Defining what type of killing deserves greater punishment dates back to the 1957 Homicide Act, where the distinctions between capital and non-capital murder began. Determining the length of sentence has been problematic since 1965¹⁵⁷. The MLS, when introduced, was neither wholly indeterminate or a sentence for life. Substituting hanging in 1965 with an indeterminate sentence was seen by Blom Cooper and Morris (2004) as being a more

¹⁵⁵ Ex prisoners such as Erwin James whose biographical writings commenced in custody, has played an active role in political debates since release and serving prisoner Ben Gunn sentenced at 14 to life for murder is currently seeking to publicise further the impact of indeterminacy.

¹⁵⁶ As defined by the research undertaken by Mitchell (1998).

¹⁵⁷ Within the introduction of this thesis I made reference to the fact that the average length of MLS has remained at 14 years since 1965 and over the last 15 years the average length of DLS has been 11 years. However, Padfield (2002) found the average sentence length from 1990-2000 was 15.91 years. Thus indicating the difficulty in assessing the length of sentence and the factors at play in doing so.

punitive approach on a par with the brutality of hanging. Some men in this study confirmed this assumption. Capital punishment was considered by some staff and prisoners as being preferable to indeterminacy and justified according to the gravity of offence; but this was tempered with the concept of prisoner hierarchies, where only particular offenders were seen as deserving of the death penalty.

Alternative sentences considered by the prisoners were, for the majority, determinate in nature and not exceeding ten years. Such a sentence is understandable from their perspective, having lived with the devastation of indeterminacy. However, ten years for all murders would not be viewed acceptably within law and order debates. Today in England and Wales more lengthy sentences are the norm, particularly those who commit murder using guns and knives.

It is important to remember the men in this study had their sentence length set in secret and served the greater part of their sentence under Executive intervention (see chapter 1), all of which denied a sense of equity in sentencing in comparison to other lifers. The MLS created a category of prisoner who initially had few rights and who entered the prison system with uncertainty regarding sentence length and release. Changes to policy and ultimately legislation have occurred as a result of challenges from DLS prisoners to the ECtHR and subsequent case law (see Livingstone and Owen 1999, Padfield 2002). The poor relation has been the MLS prisoner who, at best, received partial consideration and, at worst, no change until 2002 when, for the first time, he would be on par with his DLS counterparts. A strong reminder of the situation prior to 2002 was Oliver: "I didn't even find out what my tariff was until it expired". Indeterminacy and secrecy regarding the original sentence length impacted on how the men constructed identities, how they managed these, and how they coped with imprisonment in the early stages prior to knowing their tariff. Unlike Sapsford (1983), I have explored with the men the anxieties and concerns they had regarding post-tariff detention and release and these were presented in chapters 6-8 and subsequently summarised in section 9.4.5. I have argued throughout this thesis that unlike risk, dangerousness is not the decisive test in post-tariff detention for MLS prisoners. It is the original label of murderer that distinguishes them.

The public have a right to be protected from dangerous offenders; however, dangerousness has become a ubiquitous term for all indeterminate prisoners; regardless of their 'legal

statuses'. False negatives¹⁵⁸ are more serious a concern and the number of offences committed as a further serious offence demonstrates the need for caution when releasing DLS prisoners - in particular, those classified as dangerous by the courts (see chapter 2). As Maguire et al (1984) contended, dangerousness appears and disappears as a label in lifers' careers up to and including time in open prison, according to interpretations of staff - which are often necessarily subjective.

Dangerousness and murder become entwined when attempting to define risk. Proving the risk he still poses is minimal is a challenge for MLS prisoners in a risk-dominated society as highlighted by the introduction of the IPP. In order to achieve this, prisoners undertake interventions within custody during the MLS, designed to elicit change in behaviour and subsequently changing their identity. The end goal should be progression toward release (see section 9.4). For some of the MLS prisoners in this study, progression through the system to open conditions was a compensatory element that replaced a firm release date.

9.3 Theoretical Perspectives

This thesis has drawn on the work of Goffman (1959, 1961 and 1963) in doing so I have considered multiple identities as a central component when discussing MLS prisoners. For MLS prisoners, multiple identities may take the form of being a participant in a treatment programme, on an offending behaviour course, on resettlement licence and working in the community from open prison, and being a 'lifer' in the community on life licence, as well as the residuals of their previous lives as friends, fathers, husbands. None will act in isolation to the other. They will always be a MLS prisoner. Yet all are intrinsically different, carrying different obligations, roles, expectation and experiences. As such this theory is not radically indifferent to Goffman's notion of 'double biography' whereby the individual uses one set of knowledge in one situation and a differing set in another in order to survive. However, multiple identities indicate stepping out of one and into another identity; this research has demonstrated that such a concept is too simplistic. The men who had attended a therapeutic community such as HMP Grendon typify this. During therapy they had produced particular discourses through which their identities could be reconfigured a place where multiple identities were challenged. Ben's narrative is

¹⁵⁸ I will remind the reader that 'false negatives' are the prediction that offenders are safe to release and will not recidivate but recidivism does occur.

indicative: “ ...it got more and more difficult to wear this fucking mask that I had created...I couldn’t handle it...keeping up a story...”

This thesis has effectively utilised the work of Goffman on stigma and spoiled identity. These concepts have been considered and accepted by the men in this study and are central to their identity as a MLS prisoner. The MLS prisoner manages and maintains individual identities and experiences whilst juxtaposing the sameness imposed by the law. Being sentenced to a MLS is an example of Goffman’s (1963) concept of stigma. The way society portrays, perceives and penalises murder impacted on the way the men in this study thought about themselves and their interactions with others. An added factor was that of being a sex offender murderer. Societal reaction to convicted sex offenders is particularly intolerant. Eight of the men in this study were classed as sex offenders and as such had to negotiate and manage multiple spoiled identities. The negative stigma of MLS prisoner and sex offender, a double blemish, impacted on the maintenance and the destruction of the private self. The men accepted and rejected the stigma in the accounts they narrated in chapters 6-8. The implication of the stigma when they were released was also evidenced by the concerns they had, and will be discussed in later sections.

Public identification as a murderer makes it very difficult to establish a positive public identity. This is in keeping with Becker’s (1963) concept of ‘master status.’ The MLS as a master status is enshrined in law. Becker contended that some labels become the most prominent part of an individual’s character in terms of how others view them. Toby’s account in section 6.3.1 illustrated this point. He fore-fronted his spoiled identity during a conversation with prison staff regarding ‘scum bags and killers’. Rather than presenting a ‘front’ of a MLS prisoner, this example indicates how Toby’s identity as a MLS sex offender has integrated, and therefore intersects, with his other identities rather than simply being one of a number of multiple identities that can be taken on and off during a performance. This also indicates that the master status of murderer whilst recognised in law, does not work alone, as in differing contexts different identities (such as that of sex offender) may be brought to the forefront.

It was clear from my study that MLS prisoners are divided into two groups according to the type of murder committed. In this sense they are not a homogenous group of prisoners. These ascriptions are applied by staff and prisoners and assigned a rank within prisoner

hierarchy; sex offender or non-sex offender. Those classed as ‘deserving’ may have more in common in terms of their identity with their DLS counterparts (see chapter 2 and 6) than those deemed ‘undeserving’. Although for some prisoners the act of murder may be seen as ‘individual’ there has been evidence that this individualism is part of a collective group. This ‘collectivism’ adds to the complexity of identity ascriptions as it involves the subdividing of identities ascribed to the self and others; they are the same in terms of the ‘offence’ (i.e. sex offender murderer) yet unprepared for others to see them in surroundings whereby this collectivism is manifested; for example, Jack and his reticence at his family visiting him at HMP Blaine. Highly stigmatised identities can therefore make living with other prisoners difficult, particularly if the men shared such identities themselves.

The theoretical perspective of Goffman (1959, 1961, and 1963) and Foucault (1977, 1981) (see chapters 3 and 4) were both useful as an underpinning platform from which I could frame this research. However, as suggested above, Goffman’s (1959) consideration of multiple identities, those which can be dismantled to suit a given situation, was too simplistic. The notion of co-existing identities suggests that all identities are kept with the person but, depending on context, different ones come to the fore. This better explained the situation of the prisoner who had to juxtapose being a free person in the community, yet still had to be a prisoner living within the confines of HMP Shaw. Neither identity disappeared during these experiences. The prisoner had to manage the co-existence in order to appease the Parole Board, course work facilitators, therapists, psychologists, probation staff and prison officers, but underlying these was the identity of murderer. Grace-PSO (section 6.3.3) made reference to the ‘lip service’ paid by some men on programmes. She was in effect demonstrating the co-existing identity in this context, whereas the prisoner who had fully internalised the knowledge (such as Toby mentioned above) would differ in his presentation of the spoiled identity.

The concept of intersecting identities emerged as the MLS prisoner became the central identity for all the men in this study. The theory of intersectionality acknowledges how the individual brings all identities together to make their experiences of each identity different, even if in a small way. The differing components of identity each man had – father, husband, son, worker etc – all formed part of their unique identities and intersected at times with the central feature which formed the core of their identity throughout the sentence; the MLS identity. However, the men whilst all having intersecting identities,

were in effect denied implementing them fully as a result of their imprisonment (see Sapsford 1983, Goffman 1961, 1963). A key example here is the very limited way in which they could actively maintain the identity as father (if at all) and thus the identity of murderer intersects and supersedes all others. In these situations the MLS is the master status of all co-existing and intersecting identities. This presents difficulties for staff in terms of discourse and practices (see chapters 6 and 7). The centrality of the MLS identity provided the basis, situational and contextual, for the other intersections, including that of sex offender. Intersectionality theory enables one to see how a MLS prisoner may formulate a series of identities and how the techniques derived within are used by him as a way of adapting, coping and minimising the impact of imprisonment and may become an effective vehicle in preparation for release.

Prisoner hierarchies are situated predominately within closed prison and indicate that identity is contained within clear boundaries determined on the nature of the offence, rather than recognising and valuing intersecting identities. The extent to which the identity is integrated into other identities and notions of the self is important when in open conditions in terms of presentation of the self. The prisoner who has integrated fully the philosophy of therapy may be unable and unwilling to conceal a spoiled self, whilst the prisoner who presents a 'front', and uses the correct therapeutic terminology to impression manage, allows this identity to co-exist. In terms of reintegration within the community, the unconcealed spoiled self may prohibit progress. There is not a complete dichotomy between intersecting and co-existing identity, as at times the men will have both. Identities that appear to co-exist as a front may permeate other identities and thus intersectionality occurs; even if secondary.

The labelling of prisoners in relation to offence status, sex offender and or lifer, can become the label they see themselves through. In the case of the sex offender, the label may help him access treatment whilst at the same time invading other parts of his life - for example his treatment by non-sex offending prisoners, who treat him with hostility in prison, and officials, who use increased monitoring and surveillance in the community post release. These positions were experienced and recounted in the narratives of the some of the prisoners in this study.

The spoiled identity helps us to understand how the men who have murdered view themselves and how others view them. The evidence from this research has shown that men who have murdered use co-existing identities and refer to the concept of stigma and spoiled identity as a way of self-defining. They also classify and assign spoiled identities to others and manage these by confronting or concealing; all of which commence at point of sentence and progress, submerge and re-emerge throughout the sentence. Spoiled identities were embraced by those who saw the crime of murder as deserving the MLS and in terms of managing risk – their own and others as outlined by Billy section 6.4.2. The stages of the MLS from point of sentence to life on licence demonstrated how the co-existing and how for some, ultimately intersecting identities were considered and managed.

Within this framework, consideration was given to the prospect of release and linked to the policy of the MLS. Here the preparatory re-entry experiences drawn from the framework of Visser and Travis (2002) illuminated the need to invest in an identity in order to proceed. At open prison, the MLS prisoner identity loses importance for the prisoner in terms of status and has to be replaced with a quasi-free identity in order to move toward release. Here consideration was given to the predicament of being a fluid unknowing self. Callero (2003) recognised that a public self was brought about as a result of power, but also the concept of ‘fronts’ evidenced through positioning where individuals locate themselves during social interactions. Positioning provides an investment for the individual; the ultimate investment for most MLS prisoners is being released. Positioning is unfixed as is the self; the self is contradictory. MLS prisoners have to co-exist and narrate within competing and contradictory discourses whilst keeping the narrative going in order to progress by constructing and presenting an unspoiled self. The argument made throughout this thesis has been that the unspoiled self can never be present. However, the degree to which their spoiled identities may be concealed by staff when placing prisoners into community work is indicative of the contradictory and competing discourses experienced by staff in open conditions (see section 7.7 and 9.4.4). If the men try to do this, the concept of ‘deceiver’ and ‘denier’ is conferred (see chapter 6-7). The men have (in varying degrees) accepted, taken on and addressed the spoiled identity. Most have become skilful in when, where and how they expose that identity as portraying positive images are a pre-requisite for release. The notion of spoiled identities was a feature the men acknowledged and was confirmed by their experiences of life in prison – self-

ascription, ascription to others vis a vis a prisoner hierarchy, staff treatment and community perceptions. The following section will consider these issues.

9.4 Constructing Prisoner Identities

This thesis has provided evidence regarding the affective experience of the imprisoned and the personal struggle of coping and working with a MLS. It also contributes to our understanding of the impact of long term imprisonment, providing an insight into how men cope with imprisonment for murder, indeterminacy and the identities they develop, ascribe and have ascribed in order to do so.

The prisoners' early experiences of imprisonment elucidated typologies of prisoners. These 'prisoners' were constructed by staff based on their prior knowledge of working in closed prison and are in keeping with prison literature on the topic (see section 6.3.2). The previous typologies of prisoners (and classifications) reviewed within this thesis have not focused on lifers, but other populations of prisoners therefore leaving a gap in the literature. Whilst the literature is relevant for all prisoners, this thesis enables consideration of why and how such typologies emerge in relation to MLS prisoners. Some men used co-operation as a means of coping, and move in and out of being co-operative, during the sentence. For some men, the nearer to the end of his sentence he perceived himself to be, the more compliant he became. Being compliant was part of managing co-existing and/or intersecting identities - identities classified and assumed by staff perceptions. Any previous typology such as rebel, evidenced in 'them and us' attitudes (Sykes 1958, Irwin and Cressey 1962, Goffman 1961) once prized as a portrayal of individuality became redundant, serving no purpose to those seeking release. Concepts such as 'deceiver' are of import in this context as the men 'knew' that in order to progress a change in behaviour was needed and, as the sentence progressed, the corresponding behaviour (for some men) became more positive. The quote by John -Senior Manager (see section 6.4) in relation to telling prisoners 'what they need to do to address areas of offending behaviour' illustrates the complexity of identity formation. The policy on the one hand assists the maintenance of co-existing identities, whilst on the other is a way of enabling full integration of a spoiled identity into an intersecting one. All typologies were indicative of carefully and sometimes clumsily negotiated impression management skills. For example Noah (see section 7.8.1), who was skilful at combining his co-existing and intersecting identities, still failed in his management under times of immense stress.

Morris and Morris (1963) identified hard-core behaviour such as opposition to prison rules, with prisoners whose influence was greater among inmates than officers. Hard core behaviour was not evident in my interviews in open conditions, although retrospectively prisoner accounts acknowledged such behaviour. Within chapter three I made reference to how the traditional masculine identity, for example, not presenting as vulnerable within the prison environment was indicative of operating within a number of identities. The men demonstrated this through their narratives for example Ben stated “this is how prisoners will look at you...how you must look at them...It is a defence mechanism, they will target you inside if you are seen to be weak”. The concept of inmate codes (such as commitment to a dominant gang leader and maintaining the same self concept as pre-prison) relevant to the work of Jacobs (1977) did not emerge in the same format when the men in this study considered their years of imprisonment. What did emerge was the concept of a lifer community. Strong prisoner communities, as suggested by Clemmer (1940), are applicable to the lifer community, which, for some, was a forum to develop an identity and cope with imprisonment. Clemmer (1940) claimed prisonization subverted the purpose of rehabilitation. I would suggest that prisonization is a coping strategy for long-term prisoners to make sense of their situation and develop and manage an identity. In these terms it is not the opposite of rehabilitation, rather a self-imposed variant. What was evident was a degree of shared aspects of identity/experiences, such as the need to be more careful later in the sentence in terms of behaviour and associations. Like Morris and Morris’s (1963) research, these men influenced each other’s behaviour and attitudes more than any influence the Prison Service exerted. It is important to remember, however, that Morris and Morris were studying recidivists at HMP Pentonville who had a release date (unlike MLS prisoners) and therefore had less reason to invest in pro-social behaviour.

Wheeler’s (1961) reformulation of the effects of imprisonment and the shedding of the prison culture as men near release has been contradicted by the narratives of prisoners and staff. This was evidenced by the continuation, for some, of association with the ‘lifer community’. Being part of the lifer community was acknowledged in the different roles the men were undertaking in open prison. Some reconstructed their lifer identity into a pro-social model by behaving well in prison, yet some maintained the associates from anti-social times. Wheeler (1961) maintained that mixing with other prisoners at this point of near release would prohibit remodelling. What was evidenced in my research was the

ability (of most) to successfully manage and co-exist with a pro-social identity. This was done later in the sentence because any anti-social behaviour would impact on release. Not all men were successful at managing their co-existing identities, some being more adept than others. For some of the younger men in this study, who had not experienced the austere conditions of the closed prison in the 1980s to the early 1990s as had their older more long serving counterparts; the lifer community in open conditions was avoided. They used open conditions as a platform to reinvent themselves with peers outside and in doing so were more successful at managing their co-existing identities.

Irwin and Cressey (1962) claimed the notoriety of the offence and the respect engendered from other prisoners made sentences more bearable. The men in this study corroborated this, although in the context of the interview they were not proud of their crimes. They did not wear murder as a badge of honour. Many tried to shy away from this identity, particularly in open conditions where they had to manage spoiled identities more carefully. Retaining an identity such as sex offender was not productive for self-progression. Such identities are spoiled and where possible some concealed this identity from prison associates, particularly those who were not sex offenders. Crawley and Sparks (2005) found men anguished over where they would live on release; particularly sex offenders, who feared retaliation. This study reiterates these concerns.

The Social Inclusion Report (2002) highlighted the level of prisoners who have also been in care. This was reflected by my interviewees. These men brought with them experiences of the care system that ‘helped’ them cope with estrangement and with institutional regimes, while at the same time strengthening and confirming their rejections in early life and compounding their lack of self-respect. These experiences did not help them make sense of the sentence; therapy did. Undertaking a therapeutic regime such as HMP Grendon was a painful voyage of discovery for the men: *“The life sentence is a good thing. It enables a person to have the time they need to face up to themselves as a person”* (Jack- his emphasis). Taking a life in order to receive the help and support needed as a result of negative and traumatic childhood experiences is a sad reflection on any society. The experience of Jack and other men in this study confirmed that therapeutic intervention was one of the most productive experiences of the MLS. The ‘Grendon graduates’ differed from other men in this study in terms of making their private public as a matter of course. Therapeutic intervention provided a platform to reform the person as a ‘whole’, not as

elements of risk. Success within the therapeutic community is determined by honesty. There has been evidence through the narratives of prisoners, and the perceptions of staff, that responses to prison run programmes have been feigned. This has been done in order to ‘appear’ to lessen risk. Risk management is reliant on the expertise of report writers, whose job is further complicated in these situations. As seen with the case of Rice, ‘experts’ have become the target of mistrust. The result for MLS prisoners in particular is the concern that experts have in recommending moves to open prison or release; regardless of the success or failure of prison based course-work.

The men in this study agreed that courses were used as a means to an end – release. Many concealed spoiled identities by presenting a front most acceptable to facilitators. Amanda–Psychologist (section 6.3.3) indicated that assessments could check for ‘genuineness’ to responses. Assessments are unable to fully determine the degree to which any identity is fully intersected or where the co-existing identity is presenting a more persuasive ‘front’; this makes the use of such assessments more difficult to interpret and/or rely on when assessing risk.

9.4.1 Identity and the Disrupted Life-course

In this thesis, I have considered the erosion of identities in relation to life-course events. The impact of this disruption has been framed within the management of identities, risk and release implications. There was evidence to suggest the disrupted life-course impacted significantly on their relationships with families. When contact was cut off by the prisoner, it was not purely for reasons of coping (Farber 1944). It was indicative of the complexity of identity formation and the dominance of a spoiled identity and centrality of the MLS identity. Some prisoners who ceased contact did so as they were attributing spoiled identities to other prisoners, as indicated by Ben, who stopped his children visiting due to being with ‘schedule one’¹⁵⁹ offenders. The loss of family contact was for some inevitable, when considered in terms of indeterminacy. Staff perceived those with less family support as most likely to encounter difficulties in the future. Some men expressed the guilt they felt at their families being the ‘punished innocents’ - this was evidenced in the moves from prison to prison (see Oliver quote 7.4.1), the distance the men were held from home, and the abuse some relatives experienced from members of the public. The sentence was

¹⁵⁹ A legal category applied to those who commit offences against children under 16; they are not necessarily sex offenders.

catastrophic. The uncertainty associated with moving from prison to prison generates a debate about whether MLS prisoners should spend their entire sentence in one place and, if so, how this could be achieved under current prison provision. The impact of indeterminacy and lost time compounded their situations, particularly with regard to re-establishing themselves within the family unit; they were returning as strangers.

Another key finding related to the disrupted life-course is the lack of opportunity to undertake social experiences as part of the maturation passage. Being frozen developmentally was acknowledged by Zamble and Porporino (1988) similarly, some men in this study still saw themselves at the age they were when sentenced (and they thought their families did too). In these cases, the men found difficulties in constructing narratives of the self. The result contributed to their inability to cope with freedom in open conditions, displaying behaviours that resulted in a return to closed prison, as exemplified in particular by Harry and Daniel (see 6.3.4). If the prisoners tried to recreate their missed social experiences with people younger than themselves, they would be considered a 'risk' in terms of propensity to re-offend and their ability to self manage their social and emotional limitations; and if they resisted reintegration – a failure. Albrecht (1977) claimed that social reintegration diminished if longer than 15 years was served. This time scale was borne out by the majority of men in this research. For some men, the impact of the MLS confirmed social reintegration would be problematic and detrimental to the person (see Jack section 8.2.1) for others, the opposite was claimed. Social reintegration can also be considered in terms of institutionalisation. Some men had to consider what life outside actually offered them, when the prison and lifer community already provided the support they needed. Unlike previous research, such as that of Cohen and Taylor (1972), where men speculated about the impact of long-term imprisonment, men such as Joseph who had served 28 years had and were living the experience; for these men, the MLS identity could not be accommodated with the co-existing identity of a free person.

As discussed within this thesis, identities operate on a number of levels for MLS prisoners. The successful management of co-existing and intersecting identities precipitates movement within the prison system toward open conditions. The open prison is supposed to reverse the effects of institutionalisation and to counteract the effects of imprisonment; a colossal task. Within this study the open prison proved, for some, to be the most difficult part of their sentence. The following section will consider in greater detail the findings of

this study in relation to the open prison and life in the community and will consider the impact of imprisonment.

9.4.2 Combining Identities

The open prison's primary function is to prepare men for release into the community, alongside minimising the impact of imprisonment. The notion of moving from a helpless inmate to a fully independent and pro-socially functioning person is what is supposed to happen during the time the prisoner is in open conditions. The reality experienced can be what Goffman (1959) terms 'fragile' and, in the case of continued progression toward release, the performance (or front) can become dislocated or fractured, the result being recall to closed conditions. Co-existing identities become most prominent during this stage of imprisonment where the prisoner identity becomes at once both entangled and dis-entwined from the citizen identity. A prisoner and a quasi-free man in one; a time when skilled impression management is required; a time when intersecting and mutating identities are negotiated and deployed to suit the situation and encounter.

The difficulties facing staff and prisoners within HMP Shaw have been highlighted throughout this thesis. The 1996 Internal Review of Open Prisons strongly recommended that the Prison Service publicise and promote the work undertaken in open establishments to reintegrate prisoners, despite public discontent. Public discontent was a major feature that impeded progress at HMP Shaw. The local community adjacent to HMP Shaw and Blaine did not welcome the arrival of MLS/MLS sex offender prisoners. Rather than being less defensive about the role the prison played in working with sex offenders, a more defensive and risk averse response emanated. The prisoners in question were experiencing a return to closed prison for on going assessment and coursework. The MLS sex offenders in this study faced not only managing co-existing identities, but experienced policies within these prisons which deliberately differentiated and further stigmatised them. The policy of spending time at HMP Blaine prior to transfer to HMP Shaw was similar to the 'Brittan Rules' (see chapter 2). The question of risk is pertinent in that these men had attained category D status yet were detained in closed prison. Even more devastating for these prisoners was the transfer from HMP Shaw into Blaine after having the initial taste of open conditions.

There had been some absconds by sex offenders from HMP Shaw, and these had impacted on how the local community perceived MLS prisoners in general. An oversight by the prison was the failure to inform the local community of the number of prisoners who, by their own self-regulation, and self-discipline, remained in custody and progressed toward release; thus providing some necessary reassurance. These prisoners were, in effect, demonstrating their management of co-existing and intersecting identities in a demanding, challenging and less structured environment. Whilst, for others, self governance was problematic in terms of managing co-existing identities within the prison and the community and was demonstrated within the prisoner narratives and staff perceptions.

It has been suggested that the negative impacts of imprisonment, such as isolation and social withdrawal, subside as the sentence progresses (Sapsford 1983, Zamble and Porporino 1988, 1992). These can re-emerge in open prison as a result of the pressure in coping with the regime and managing co-existing identities. However, most of the men have become more skilful at management in order to move toward release. As discussed within this thesis, the length of time spent in closed conditions, for some, impacted on their ability to settle in open prison. In the cases of men returned to HMP Blaine from HMP Shaw, isolation and withdrawal become on-going and for some had detrimental effects on their emotional and mental health.

The deteriorating mental and emotional health of some prisoners had not improved over time as claimed by Zamble (1992). Most of the men in this study had become adept at managing emotional decline and portraying themselves in the most acceptable way. The negative impacts had not subsided as the sentence progressed as claimed by Sapsford (1983) and Zamble and Porporino (1988, 1992). Feigning emotional stability in order to progress or at best remain in open conditions was a stressful option, but for men like Sam a necessary one. In addition, there was clear evidence to suggest that some prisoners were not progressing due to lack of community resources to cope with mental health issues. Finding suitable hostel placements for the men in this study raises questions, as exemplified by Sam (section 8.4) who was placed at HMP Shaw despite his preferred area of relocation being hundreds of miles away. The county he wished to live in could not take him due to his perceived lack of risk; a perverse situation. The difficulties of placing men with complex needs like Sam and the demands and stresses placed on personnel within HMP Shaw impacted on his (and others) progression and eventual release. The Rice

Report confirmed the difficulties placed on prison staff to find suitable placements for the 'hard to place'¹⁶⁰. The time, expertise and resources needed to support men like Sam were not available within HMP Shaw. These prisoners typify the worst aspect of indeterminacy and impact of imprisonment. They have mental and physical health issues and in terms of risk fall outside of 'designated' statutory services. They remain in a liminal state indefinitely and may resort to alternative means such as illegal substances to minimise the discomfort.

For some men, managing the impact was achieved via drug use in both closed and open prison. Using drugs and alcohol was a means of managing co-existing identities and lessening the impact of the central MLS identity, particularly in open prison. Some men took control of their situation by using drugs as a means to return to closed prison; indicative of the pressure of life in open conditions and the impact of imprisonment. Using alcohol and drugs needs to be considered in terms of risk and re-offending particularly if the original offence was committed under these influences.

As mentioned within this thesis the mass media have portrayed certain open prisons (see chapter 2) as lacking security in terms of staff managing situations where prisoners were accessing drugs and alcohol. The portrayal of open prisons in this way adds to the concerns held by the general public as to the suitability of prisoners transferring to open prison and inevitably demoralises staff who, at best, have to work within situations of minimum security, often without clear objectives or guidance - a similar situation to that reported by Jones et al (1977) and Newell (1996). These issues were evidenced by the narratives of the participants in this study.

9.4.3 Working with MLS Prisoners: Risk and Indeterminacy

The major attraction of open prison has been the theory that it delivers an inexpensive form of imprisonment. Yet the number of MLS prisoners (Table 2.2) in open conditions is declining. This can be attributed to a more cautious approach when considering transfers as a result of cases such as Rice. It is also indicative of a need to fully understand presenting identities and assess risk accordingly. There was evidence to suggest that there was cultural and organisational divergence between professions when assessing risk.

¹⁶⁰ Those whose offence, life style, static and dynamic risk factors make management more difficult.

Encapsulated in this was the need to appease the local community and ensure all prisoners were 'safe' to be there, when the evidence from the narratives show that in some cases they are not (for example sex offender absconders). Pressure from the local community put the prison staff and prisoners under stress to ensure safety and as such they become part of politically driven agendas on crime and punishment. The ramification for the prisoner was the policy in place (opcit).

Mitchell (1992) noted that those working with lifers preparing for release had little training to draw on when making decisions; the position continued in 2006 when the interviews for this research was undertaken. My findings indicated very clearly the concern from staff regarding their personal ability to assess risk and propose release. They had to juxtapose the personal/unofficial versus professional/official dichotomy regarding their decisions. The training given to staff to enable them to deal with the competing discourses they experience in terms of these dichotomies, combining rehabilitation with risk management, needs to incorporate an understanding of the 'fronts' - co-existing and intersecting identities proffered by the men if their decision making ability is to be enhanced.

The enormity of the task has been featured throughout this thesis. The situation was further compounded by the difficulties staff new to working with MLS prisoners were experiencing. Prison officers in particular have acknowledged their limitations. One of the officers interviewed for this research would like to have had the opportunity to personally assess the prisoner outside of the prison rather than relying on hearsay from others (Jonas - Lifer Manager section 6.4.1). The benefits would be advantageous and would enhance the quality of risk assessment, as well as assisting the Parole Board in final decision-making. The initial cost would be outweighed by the overall long-term benefits including prevention of further serious offences (see chapter 2).

This research has indicated that more intensive training needs to be available to staff working with MLS prisoners. Staff should be able to understand and manage the difficulties presented by MLS prisoners and men detained post tariff. At present the dilemmas facing prisoners within open conditions and beyond as a result of long-term imprisonment are not fully appreciated by staff, and as such the way we work with those subjected to a MLS remains tenuous.

Over thirty years ago, Jones et al (1977) identified lack of training for prison staff within open conditions. This was evident throughout interviews with staff. The training received by staff at HMP Shaw for working with lifers in open conditions amounted to 15 minutes of a four-day course. Staff showed an awareness of their deficits of knowledge and how changes in policy were rapid and difficult to keep abreast with. Some prisoners were concerned by this and blamed staff in some cases for not knowing what was happening; others understood that staff were as disadvantaged as they were. Staff recognised the need for an updated rolling programme of training. Such training needs to pay particular attention to risk assessment and management in general and, in particular, to the re-integration needs of men who have experienced an indeterminate sentence and the ramifications of preclusion from society. This would involve increased expenditure in the short term. However, the changes that could be achieved, in respect of the quality of support given to prisoners and the enhanced ability of staff when making decisions would reap benefits in the long term.

This thesis has considered the narratives of staff, all of whom had a range of responsibilities and varying functions within the open prison. The 1996 Internal Review of Open Prisons made some controversial suggestions such as officers being taken out of uniform which, in part, could account for the document not reaching the public domain. The forward thinking approach of this review would not fit comfortably with law and order agendas of the time, particularly the general election of 1997 and New Labour's 'tough on crime' rhetoric. The removal of uniformed staff could help to break down the barriers experienced by men who were coming to terms with quasi-freedom; non-uniformed staff in psychiatric facilities has worked well in many health authority areas¹⁶¹. The role of discipline officers should remain with uniformed staff and as such not be the responsibility of the personal officers working with MLS prisoners. Discipline officers have to prioritise the discourse of risk management, a role which blurred and contradicted the discourse of rehabilitation within HMP Shaw. It is therefore more beneficial, and in keeping with the ethos of open prison, to remove this dichotomy from personal officers who try to build positive relationships with MLS prisoners at the prison. The prioritisation of risk management in this context has prevented staff from engaging comfortably and fully with

¹⁶¹ I have personal experience of this as during the 1970s and 1980s many large psychiatric hospital acute wards and units including those in Somerset practiced in this way with a view to remove the stigma associated with 'mental hospitals'.

the rehabilitative role and as such was impacting on their day-to-day interaction with the men. The division between the 'personal' and 'professional' dichotomy increased. A more informal approach by non-uniformed staff focused on community re-integration, with knowledge and understanding of the emotional and psychological impact of long-term imprisonment, would assist. HM Inspectorate of Prison (2008) report on HMP Shaw indicated the need for personal officers to have a greater understanding of their role and increase their interactions and work with lifers accordingly. In comparison, HM Inspectorate of Prisons (2009) report on HMP Kirkham, found the best personal officer support to date, demonstrating the need for a clear and definitive role for personal officers across the open estate. Working with MLS prisoners is without doubt a challenging and emotive experience. Within open conditions, the complexities of the sentence and the men are highlighted. The personal difficulties of working with these prisoners should not be underestimated; neither should the impact on the prisoner as he manages and considers co-existing identities in these circumstances.

9.4.4 Disclosing Identities

The time when the prisoner arrives at open conditions is where the co-existing identity is most prominent in the sense of him trying to present a 'front' which is both accepting of the new experience and accommodating the situation; this may not be how he feels, but is necessary for him to progress in order to experience life in the community. Some MLS prisoners will not allow the MLS to become fully integrated into the self due to the stigma and spoiled identity it relates to. In these cases, management becomes more difficult in relation to supervision and monitoring in the community. Actuarial justice with emphasis on the surveillance and monitoring of specific groups symbolises the discourse of risk management (see chapter 2); it is within this context the staff at HMP Shaw are constructing prisoner 'identities' and, as such, are faced with decision making based on these constructions. This may not be accurate, but will inevitably affect the process of release - positively or negatively. The MLS prisoner may develop such techniques as impression management, but it is questionable that he wishes to take up the 'old self' at the prison gate as claimed by Schmid and Jones (1991), particularly if the old self is seen as a murderer or sex offender murderer.

The interviews produced evidence of the difficulties facing the prisoners and staff when approaching disclosure of offence within the community. Strategies used in these circumstances involved a veil of secrecy incorporating avoidance techniques from the staff. The enormity of the crime was seen by some staff as too difficult for employers to comprehend; a limited disclosure was seen as preferable - a way of lessening the spoiled identity. This was most problematic for men here who had been used to making their private public through their therapeutic identity (see Oliver section 7.7). The men were aware that when they were working out in the community from the prison they were still viewed as murderers; stigma and label firmly in place. When considering how they would like to be viewed by others on release, the two level concept of stigma identified by Irwin (1970), the subjective, how the prisoner perceives his stigma and how this is perceived by others (the two may differ) and how the stigma is managed in formal and informal settings, was exemplified in the prejudices they had, and would potentially face, as a murderer gaining employment. All of the men in this study, wanted to be viewed for who they were on release; not who they had been 'before'. The work experience gained in closed prisons did little to prepare for working out in community. 'Outside' work identities are highly prized in open prison, as they mark the potential for release. However, the opportunities at HMP Shaw were limited and embroiled in local politics (see chapters 6-7).

One of the major obstacles facing prisoners in open prisons is access to community-based work for those convicted of a violent and/or sexual offence. The 1996 review recommended a working week of 39 hours for all prisoners. This had not been achieved for lifers at HMP Shaw. At the time of this research, the majority of MLS prisoners at HMP Shaw were not employed full time in the prison; only one had full time paid work in the community. Work activities should be the core of the regime at open prison. All prisoners at this point should have an opportunity to undertake demanding and rewarding employment. What has been evident in this research is the boredom and lack of availability of 'proper work' in the community for MLS prisoners. HM Inspectorate of Prisons (2007) was concerned with the lack of work opportunities for lifers at HMP Leyhill, a prison with expertise in working with such prisoners. There is reticence amongst colleges and employers to take sex offenders and in the current economic climate the situation will worsen. If the opportunities for paid work in the community are diminished due to risk management concerns and community antipathy, prisons should provide alternative services within. As the MLS prisoners at HMP Shaw (and arguably other open prisons)

were not considered in the same way as the other prisoners by staff and local communities; they will fail in open conditions. The inadequacy of provision of suitable activities compounds this situation. The men wanted to shed the identity of ‘dangerous murderer’ on release although all were aware the sentence, law and restrictions would not allow this. As stated above, the men all wanted to be seen for who they are on release, not who they had been at the start of the sentence. This raised further questions relating to how staff working with them see them at this point of sentence, given their construction of MLS prisoners was through the offence. Dilemmas and contradictions were evident, guided by professional discourse whilst at the same time reliant on personal discourse in order to make sense of the situation for example Andrew –Prison Officer (section 8.5.1), claiming prison officers training enables them to work with anyone, whilst at the same time demonstrating his hostility toward certain types of offenders. Andrew’s narrative is indicative of the contradictory discourses at play. In order to assuage these staff made use of transferable skills gained in closed prison. Some engaged in professional distancing, seeing the prisoner as always a ‘prisoner’ and as such supporting Irwin’s (1970) subjective level of stigma. Professional distancing is indicative of prioritising the dominant discourse of risk management in a rehabilitative environment.

Shedding the label murderer was also viewed as problematic when considering developing relationships with a significant other¹⁶². Some men indicated that they would not disclose - others would avoid relationships for fear of recall if things went wrong, based on the nature of their offence. Sharing the spoiled identity was not considered by some of the prisoners to be conducive to remaining in the community. Disclosure is part of making choices, self-responsibility and risk management. The narratives highlighted the complexity of managing co-existing identities both in open prison and on release. I have discussed, how for the staff who have the ‘face to face’ daily contact with prisoners, combining matters of ‘risk’ and ‘rehabilitation’ becomes problematic. The area of disclosure exemplifies this. The staff should be undertaking ways of supporting prisoners with disclosing their offence in different situational contexts. Additional staff training in this area would be beneficial, as would additional supervisory support for staff themselves.

¹⁶² Such as a potential intimate partner.

The impact of indeterminacy and imprisonment was evidenced from a staff perspective in prisoners' inability to shed the prisoner/lifer identity when outside of prison. Language was seen by staff as the most obvious barrier and confirmed by some prisoners. Wheeler (1961) claimed a reformulation of the effects of imprisonment including shedding prison culture, of which, language is a part, as men near release; this was contradicted by the narratives of prisoners and staff. The men who were most successful at shedding the prison culture were the most able at managing co-existing identities.

9.4.5 Prisoners' Future Concerns

Sapsford (1983) found few men spoke of life after release. This deficit was considered a weakness of previous research (Zamble and Porporino 1984). The men in this study considered the difficulties they perceived they would encounter on release and therefore spoke about the future. All of the prisoners had concerns over life on licence; their biggest fear was the prospect of recall - a justifiable concern, given the continuing growth of life licence recalls as shown in Table 1.6. Within this study, recall was experienced in two ways; from HMP Shaw into HMP Blaine and from the community. These recalls occurred in response to political prominence regarding sex offenders and absconding from the prison, alongside the accuracy of report writers recommendations and communications. There were clear factors evident with recalled prisoners - the impact of imprisonment, prison becoming a place of safety and risk factors, compounded by subjectivity (see chapter 1). The vulnerability experienced serving the MLS and the cross cutting identities have been demonstrated through the narratives of men. The inability to manage or diffuse the MLS identity was most problematic in cases of the recalled and those perceived as institutionalised. All prisoners appeared unaware of the true nature of life on licence and supervision. For some prisoners, the 'mobile prisoner' on licence was just another set of regulations to follow; indicative of loss of autonomy as a result of imprisonment. Staff paid no attention to life on licence - working within the prison appeared challenging enough. More emphasis needed placing on developing and maintaining constructive supervisory relationships with outside probation. However, this was difficult in times of budgetary restraints, law enforcement agendas and public protection dominating their work. HMP Shaw was not geared to working with MLS prisoners. The staff were ill equipped to deal with the needs of these prisoners. The devastation of the impact of indeterminacy and the magnitude of the offences was too much for some staff to cope with; it was also too much for some prisoners. The men in this study held great store in the

future and most never gave up the hope of living a life outside, demonstrating the robust nature of the human psyche. However, there was evidence to suggest that for some men prison was a place of safety and life outside no longer the prized goal. For one, all hope was lost and suicide became the only option. The ultimate test will be the success of these men on eventual release.

9.5 Recommendations

Of course, this study has limitations in terms of representation, which I have addressed in chapter five. However, one of the key strengths of this study is the detailed narratives and candid accounts elicited from the prisoners and staff from which tentative recommendations can be made. Whilst the recommendations relate primarily to the institutions included in my study, there are lessons that can be drawn for all institutions involved in the imprisonment of MLS prisoners. The main aim of the research focused on exploring the identities of MLS prisoners rather than recommendations on policy and practice but nevertheless there are some clear lessons for policy makers and practitioners emanating from this research. The findings in this thesis indicate that the law for murder needs reforming more radically than the Law Commission Review (2006) proposes. The 2006 proposal to retain the MLS has a comfort element. There are no sweeping changes that would challenge current law policy and practice. Since undertaking this research, there has been increased publicity on the number of murders occurring due to knife crime. Reviewing this trend, the then Justice Secretary Jack Straw (2009) set the minimum term of imprisonment at 25 years; a radical reform resulting from public protestation. If long initial tariffs are the norm there is a need to have in place a system that promotes rehabilitation without compromising risk - a system that causes minimal damage to the men serving the sentence. Men need to be prepared well in advance of open prison for release, particularly in terms of meaningful and useful activities - not ones that separate and alienate them from re-entry into an ever-changing society. MLS prisoners need to leave prison with reduced risk, be emotionally stable and equipped with skills to resume a meaningful place within society. HM Inspection of Grendon (2009) indicated that there was no national strategy available to guide appropriate referrals to the prison, a situation that needs addressing. While therapy is not agreeable to all prisoners, this is the only research that has focused on MLS prisoners and the words of the majority of the men that had attended Grendon indicated they had greatly benefited from this experience. Therefore, I would recommend at the very least, every MLS prisoner is given the opportunity to

undertake the Grendon experience and this be contained within a national strategy given the positive outcomes the majority of men in this study recounted. However, the 2009 inspection report on HMP Grendon raised concerns regarding cumulative cuts threatening the viability of the therapeutic community as group therapies and staff interaction were reduced. This is crucial to the ethos, principle and success of the therapeutic community and should not be compromised by finance. Under this situation, any research post Genders and Player (1995) that could compare the effectiveness of Grendon with cognitive programmes run within other prisons would be limited.

Replacing the MLS with a determinate or discretionary sentence is an option. Having seen the destruction and devastation caused to men who serve an indeterminate sentence and MLS both as a practitioner and a researcher I err on the side of a determinate sentence for murder with indeterminacy used in particular circumstances. However, I fully understand the dilemma of the need to prevent future victims at all costs. The difficulty then is to argue against indeterminacy in this context, if the prisoner is still exhibiting features that suggest he would murder again. The notion of false positives and false negatives come into play here as discussed within chapter two. Indeterminate sentences are seductive particularly if there is evidence that risk cannot, and belief it will never be, minimised. In such cases a whole of life sentence would be preferable, as neither the prisoner nor society will be under any illusion of release. Whole of life sentences should rightfully be retained for cases like Steve Wright and Peter Tobin¹⁶³.

The policy regarding open prison needs to be reviewed and consideration given to returning to schemes such as PRES as a forerunner to open conditions. Such a move was taking place at HMP Shaw with the conversion of the gate houses (chapter 6), with an emphasis on independent living as a start to supporting lifers with the skills they will need. All MLS and indeterminate sentence prisoners within open conditions should have the opportunity to self manage in terms of cooking meals, doing their own laundry and managing a budget as a matter of course, not as a reward for progress; this could be achieved by small self-contained units as opposed to larger blocks of accommodation. The

¹⁶³ Steve Wright known as the 'Suffolk Strangler' was sentenced to a Whole of Life sentence in 2008 for the murder of five prostitutes in Ipswich. Some victims' families campaigned for the reinstatement of capital punishment. Peter Tobin was sentenced to whole of life while currently serving a 30 year minimum term for two murders, after being found guilty of other murders. Both men are suspected of committing more murders as yet unsolved.

1996 review recommended adapting accommodation for extended family visits. The men in this study who had retained contact with families, 'the punished innocents' would have benefited from such provision, which could be achieved within self-contained units.

Further to this employment opportunities for prisoners unable to engage in community work could be incorporated into existing buildings converted as office space, for use as for example call centres¹⁶⁴ and industrial workshops, utilising the skills and talents the prisoners have developed without officer intervention. They could be prisoner managed, with support from outside agencies. In order to increase their skills and knowledge, and to avoid impact on the 'working week', education at weekends and evenings, as suggested by the 1996 Internal Review, would be appropriate. Under these conditions, the open prison need not be defensive about their role and purpose, whilst at the same time embracing the community in achieving their goals. The introduction of 'community days', where skills and talents and productivity are showcased, would break down stereotypical images of prison and prisoners and assist in disclosing identities in a more positive way.

Designated lifer only open prisons could reduce the risks from association with determinate sentence prisoners as considered by the men in this study. It could be argued this would increase their isolation. However, the benefits of a supported and structured approach to release, in an environment where indeterminacy is the common denominator, may be more productive. Such provision would also need to ensure that the training and expertise of staff were given a higher priority and policy amended accordingly. The eighteen men in this study entered prison defined as murderers; they will all leave prison defined as murderers. Labelled with a spoiled identity, the management of their co-existing and intersecting identities will determine their success in the community. This success can be enhanced by the expertise of professionals once they have developed a full understanding of the impact of imprisonment, identity formation and supported preparation for release.

The length of training was perceived as too little by almost all staff. The need for specific training was evident, with particular emphasis on helping to prepare for release, alongside

¹⁶⁴ Any concerns over identities and potential access to victims can be eliminated by the codification of data and other measures restricting the information available and/or personal contact. The Times 13/05/10 ran an article regarding an outsourcing company in India who claim to employ inmates from Cherlapally Central Jail who process paperwork on behalf of Royal Bank of Scotland and Goldman Sachs.

support to work effectively within two competing and contradictory discourses – risk and rehabilitation. A full programme should be made available for prison staff addressing psychological wellbeing of both the prisoner and the staff, regaining a sense of identity in terms of the disrupted life-course, rehabilitation from the impact and devastation of years of imprisonment and life-skill programmes framed around changing and progressive societies. In effect, these would be de-institutionalising approaches to working with long-term prisoners based on evidence and practice from mental health services.

9.6 Future Research

In 1977 Jones et al argued that the preoccupation with absconding precluded a full research programme within open prisons and therefore prevented further exploration of the rehabilitative potential of the open institution, most notably those imprisoned for sexual or violent offences. Whilst the emphasis on open prisons has shifted to a preoccupation with risk, absconding is a matter that has continued to cause concern for staff within open prisons, and the public in general, particularly with regard to serious offenders. It is therefore an area that would benefit from updated research. The specific value of the open prison per se for long-term prisoners is also an area for continued research development. Interviewing staff new to working with MLS prisoners in open conditions also remains an area for exploration. These findings may encourage future and further research interest with a view to revising policy, practice and training.

There is little knowledge available with regard to information on prisoners' coping ability on release (Liebling 1999, Ardley 2001). This is a fertile site for continued research, particularly given the increasing lengths of time served, public attitudes toward high profile offenders and the limited resources available to practitioners within the CJS. This thesis has commenced contribution to this area via interviews with MLS prisoners who have been recalled to custody after release.

This thesis has indicated the need for more research to establish what the link is between being in the 'care system' and serious/violent crime, and how to affectively address this at an earlier stage. Violent crimes such as gang, knife and gun murders typify the changing demographics and characteristics of British society and the prison population. The successful reintegration of MLS prisoners who had been charged with these crimes should be another area of interest for future research.

9.7 Summary

This research, particularly my application of intersecting and co-existing identity, has contributed to identity theory. These theories have been applied to a specific group of prisoners and elucidate recommendations pertaining to policy and practice. During imprisonment, the prisoner can accept the situation and passively participate, or reconstruct his sense of self and, through personal reconstruction, recoup a sense of personal identity. The prisoner narratives have evidenced both stances. Whilst master status can explain how the MLS produces a specific status for prisoners, it fails to consider the underlying identities which manifest and co-exist. Master status also becomes problematic when two potentially powerful identities intersect, that of murderer and sex offender. Co-existing identities indicate that some identities simply do not intersect; for example the men who ‘talk the talk’ on programmes where they need to in order to progress, but who do not let it intersect who and what they perceived themselves to be. I have shown that there is not a clear dichotomy between co-existing and intersecting identities, as the ‘prisoners’ may have both at the same time. The defining aspect of the intersecting identity is the degree to which it has been fully accepted, embedded and integrated into the presentation of the self. I have provided new evidence of how spoiled identities are managed and co-exist in the context of open conditions, re-entry into the community and the associating factors resulting from long-term imprisonment. This research has shown that for most of the men in this study the MLS identity (when in open conditions) is more important outside of the prison than within but for some this is complicated by being a sex offender murderer. The personal struggle in coming to terms with the MLS and the devastation to the self and others has been prominent. The interviews have shown that for some, the negative impact of the sentence does not subside over time. This research has updated prison literature regarding the impact of imprisonment.

The personal and professional issues elicited from staff, particularly in relation to working with MLS prisoners and how these transpose into everyday interventions with them, including assessing risk has been highlighted. Prison staff have, within this thesis, stated a need to update and increase their knowledge base in areas such as risk assessment, indeterminacy and community re-integration approaches. This can be achieved albeit at a financial cost. The savings in terms of prevention of failure when released and the opportunity for MLS prisoners to lead a useful, inclusive and law abiding life in the

community outweigh any initial financial cost that enhanced training provision would incur in order to produce confident and competent practitioners.

I have highlighted how the regime within open prisons, particularly for men serving a MLS, needs overhauling and have made suggestions as to how this could be achieved. Rehabilitation has moved from concern with the individual to concern with risk management - protecting the public. The policy of preparatory re-entry experiences at HMP Shaw at the time of this research confirmed the spoiled identity of the prisoners and the underlying ethos of risk management as opposed to rehabilitation. Clear and concise definitions of the aims and purpose of open prisons are long overdue. This research has added a contribution to the sparse literature relating to open conditions.

This thesis aimed to examine and investigate how a MLS for murder impacts on a male prisoner's identity. This has been achieved by examining the four objectives outlined in the introduction and considering them through the narratives of the participants. This research has demonstrated the connection between the MLS as a legal concept and how this has been internalised in the identities and discourses of those who 'live' the sentence and those who 'work' with it. The sociological theories elucidated from the empirical evidence in this study have provided new ways of understanding the complexity of serving a MLS and have questioned the validity of having a 'separate law' for murder by increasing our understanding of how this impacts on 'identity'

In retrospect in light of growing preoccupation with risk (and subsequently the introduction of the IPP) it is a pity that no DLS interviews were undertaken to thoroughly test the proposition that a group of life sentence prisoners involves a distinct set of assumptions and identity problems. However, as Table 1.3 indicated the MLS prisoner had (until the implementation and full visibility of the IPP) outnumbered the DLS prisoner within the system particularly during the years of imprisonment as experienced by the men in this study. The number of MLS prisoners had exceeded the number of DLS prisoners by 57 per cent between the years of 1997-2008 (Home Office and MOJ 2004-10). These larger numbers of MLS prisoners do indicate that they are an important group to study and from the data collected they (and staff) have seen themselves as a distinct group even if that may now be changing due to different indeterminate populations within the prison system.

If, the MLS is retained in British law, it may change under reviews by the new coalition government of 2010. The identity issues raised in this study may not be experienced in the future, particularly if shorter sentences occur. However, this study will remain pertinent for those men who are, and will remain in the system for the foreseeable future and if more indeterminate sentences are passed and long-terms of imprisonment continue to be served outside of the MLS this thesis will be relevant in that domain.

Appendix 1

The Abolition of Capital Punishment and the Emergence of the MLS for Murder

The question of retention or abolition of capital punishment gained serious attention in the United Kingdom during the inter war period (1919-1939) The Criminal Justice Bill 1938 provided the drive for the most important piece of penal reform in post war policy- the eventual abolition of the death penalty. The Labour administration of the day appointed a Select Committee on the Death Penalty which recommended an experimental period of abolition for a five-year period. The impetus of the 1938 Bill had to be put on hold during the period of World War Two (1939-1945). Social and political commentators acknowledged that the Bill and the death penalty would be reviewed post war (Morris 1989).

In 1946 the National Council Against the Death Penalty, a group which had been working with the Howard League for Penal Reform resurrected the cause and enlisted the assistance of MPs to lobby parliament with a view to engaging pre- war impetus. According to Morris (1989) the growing increase in violent crimes including sexual offences between 1938-1945 in part assuaged politicians to rescind the original pre war abolitionist stance and was supported by public opinion of the time. The issue of retention or abolition was bounced backward and forward between the Houses of Commons and Lords. Despite numerous attempts from lobbyists the death penalty for murder remained. The problem of differentiating between degrees of murder and how to decide between life and death for such offences dominated the discussions of the time.

The continued debate as to whether capital punishment for murder should remain or whether the abolitionist views of the pre war era were to come to fruition was resuscitated by the setting up of a Royal Commission in 1948. The Government of the day was very careful with regard to the terms of reference. Consideration of abolition was excluded. The Commission was:

“To consider only the ways in which liability to suffer the death penalty might be limited or modified, what alternative punishment could be substituted and what changes in the law and prison system would be involved in any alternative punishment” (458 HC Debs col 565 18/11/1948)

The question of ‘alternative punishment’ could have effectively considered the use of ‘life’ imprisonment and established a template for the policy, practice and management of

murderers. However in precluding the Commission from considering abolition of the death penalty the Government acted with political expediency wrapping up the debate for or against abolition for the interim period diverting attention to the forthcoming Criminal Justice Act.

The Criminal Justice Act 1948

The reforms proposed by the 1938 Bill eventually became the 1948 CJA. The Act placed an emphasis on persistent offenders and seriousness of offence, community punishments and ideas of rehabilitation, correcting faults in the offender and providing deterrence through the use of imprisonment as punishment. Thus emphasising the 'just deserts' philosophy whereby the proportionality of the punishment is given in accordance with the perceived gravity of the offence. The reasoning behind the 1948 Act has resurrected itself in latter day Acts (see CJA 1991; 2003 and Crime Sentences Act 1997)

Report of the 1948 Royal Commission

At the time of setting up the Royal Commission in 1948 life imprisonment was not a subject high on the public agenda. What happened to lifers inside prison and if released was not discussed in social or political circles. The 1952 book by Sir Lionel Fox on *The English Prison and Borstal System* made no mention of the lifer population. Focus remained firmly on those awaiting execution. The Royal Commission chaired by Sir Ernest Gower reported in 1953 (Gowers Report 1953). The Commission found that it was almost impossible to establish degrees of murder or categories. The most controversial suggestion was that the jury be empowered to decide in each case whether on the evidence received the penalty should be death or a life sentence. Recognising the inherent difficulties of making such decisions they concluded: "The issue is now whether capital punishment should be retained or abolished" (Gower Report 1953:278)

Although Gower's remit was not specifically to address the lifer population it is hard to envisage how the question of the care and detention of lifers warranted such little attention. There was little interest shown by Parliament about the impact of long terms of imprisonment as lifers served relatively short sentences. On examination of the Gower's Report it is evident that many observations were made including the release and supervision of lifers. The Prison Commissioners raised issues that would eventually shape the policy and practice of later day services providing the template for the supervision of

lifers in the community. The more immediate question of prisoner security, containment and preparation for release and resettlement into the community were undeveloped in the report and in policy and practice. The continued focus of debate remained rooted around capital punishment. The pertinent question remained. How would it be decided when and why to release a man who would otherwise have been executed? The answer to this question occurred in part, four years later with the implementation of the 1957 Homicide Act.

Appendix 2- Table showing male murder convictions 1992-2008

Year	Number of males convicted of murder
1992	216
1993	210
1994	210
1995	269
1996	245
1997	237
1997/98	224
1998/99	238
1999/00	266
2000/01	270
2001/02	307
2002/03	311
2003/04	329
2004/05	359
2005/06	334
2006/07	263
2007/08	168
2008/09	Not available until 2010

Table showing offences initially recorded as murder 1992-2008

Year	Offences initially recorded as murder
1992	191
1993	210
1994	218
1995	252
1996	228
1997	216
1997/98	208
1998/99	227
1999/00	244
2000/01	246
2001/02	270
2002/03	296
2003/04	305
2004/05	307
2005/06	273
2006/07	223
2007/08	139
2008/09	available 2010

(Source Povey et al 2007/08 Home Office Statistics)

Appendix 3: Homicides as Further Serious Offences (Source: HC Deb, 1 February 2010, c120W)

The term "homicide" covers the offences of murder, manslaughter and infanticide. Table 1 replicates part of Table 1.11 from this Bulletin. It reflects the position as at 24 November 2009 and shows the numbers of suspects who were convicted of a homicide offence that had been recorded between 1998-99 and 2008-09 and who had previously been convicted of a homicide offence. The data includes all previous homicide convictions (where known) wherever they took place, but the second offence must have occurred in England and Wales to be included in this analysis.

Table 1: Suspects convicted of homicide, 1998-99 to 2008-09, who had been convicted of homicide on a previous occasion, by year in which second homicide offence was committed, England and Wales^(1,2)

<i>Year in which second homicide offence was recorded</i>	<i>Number of offenders</i>
1998-99	1
1999-2000	8
2000-01	1
2001-02	0
2002-03	2
2003-04	4
2004-05	4
2005-06	8
2006-07	2
2007-08	1
2008-09	0
Total	31

⁽¹⁾ Data are as at 24 November 2009; figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available. ⁽²⁾ Data are shown according to the year in which police initially recorded the offence as homicide, which is not necessarily the year in which the offence took place or the year in which any court decision was made.

According to data held on the Homicide Index, two of these offenders received indeterminate sentences for public protection for their second homicide offences, one received an immediate custodial sentence of 14 years, and a fourth received a Restriction Order under the Mental Health Act 1983. The remainder received life sentences.

Table 2 shows, for the offenders covered in Table 1, the year in which their previous homicide offence was recorded.

Table 2: Suspects convicted of homicide, 1998-99 to 2008-09, who had been convicted of homicide on a previous occasion, by year in which first homicide offence was committed, England and Wales^(1,2)

Year in which first homicide offence was recorded	Number of offenders
1971	1
1973	1
1975	1
1977	1
1979	3
1982	1
1983	1
1985	1
1986	1
1988	1
1989	1
1991	2
1992	1
1993	4
1996	2
1997	2
1998	2
2000	2
2001	2
2002	1
Total	31

⁽¹⁾ Data are as at 24 November 2009; figures are subject to revision as cases are dealt with by the police and by the courts, or as further information becomes available. ⁽²⁾ Data are shown according to the year in which police initially recorded the offence as homicide, which is not necessarily the year in which the offence took place or the year in which any court decision was made.

One of the offenders shown in Table 2 received a Restriction Order for his first homicide offence. For a further three offenders the custodial sentence lengths are not recorded on the Homicide Index. The custodial sentences given to the remaining offenders are shown in Table 3.

Table 3: Suspects convicted of homicide, 1998-99 to 2008-09, who had been convicted of homicide on a previous occasion, by length of custodial sentence on previous occasion, England and Wales

Sentence length for first occasion	Number of offenders
Over 12 months and up to and including 18 months	2
Over 18 months and up to and including three years	0
Over three years and less than four years	1
Four years	3
Over four years and up to and including five years	4
Over five years and up to and including 10 years	4
Over 10 years and less than life	1
Indeterminate sentence	0
Life	12

None of the 31 offenders identified on the Homicide Index as having been convicted of homicide between 1998-99 and 2008-09 with a previous homicide conviction, have been released from prison, according to data held by the Ministry of Justice.

Appendix 4: Life Licence

Under Section 31(2) of the Crime (Sentences) Act 1997 the Secretary of State may specify condition to be included in the licence. Such conditions will relate to the individual prisoner. In exercise of this power the Secretary of State has specified that a number of standard conditions be included on each and every licence. It has been decided that where possible the standard life licence should be consistent with the standard determinate release licence. This has resulted in a new standard condition being added to the licence requiring *the licensee to be of good behaviour* and minor amendments to standard conditions 5 and 6 of the life licence. All lifers released from 16th May 2005 onwards have been subject to the new standard licence conditions.

The seven standard conditions are as follows:

1. He/She shall place himself/herself under the supervision of whichever supervising officer is nominated for this purpose from time to time.
2. He/She shall on release report to the supervising officer so nominated, and shall keep in touch with that officer in accordance with that officer's instructions.
3. He/She shall, if his/her supervising officer so requires, receive visits from that officer where the licence holder is living.
4. He/She shall reside only where approved by his/her supervising officer
5. He/She shall undertake work, including voluntary work, only where approved by his/her supervising officer and shall inform that officer of any change in or loss of such employment.
6. He/She shall not travel outside of the United Kingdom¹⁶⁵ without the prior permission of his/her supervising officer.
7. He/She shall be well behaved and not do anything which could undermine the purposes of supervision on licence which are to protect the public, by ensuring that their safety would not be placed at risk, and to secure his/her successful reintegration into the community.

¹⁶⁵ For the purposes of this licence "United Kingdom" includes the Channel Islands and the Isle of Man.

Appendix 5 – Consent form
CONSENT

I agree to take part in this research and am fully aware of the issues relating to confidentiality and anonymity. I understand that I have the right to withdraw from the process at any time and can request that specific information I divulge is not used within the research.

I am aware that I will not be entitled to any financial gain from taking part or have or receive any privileges as a result.

I understand that the researcher may require access to reports or documents relating to my imprisonment and I consent/do not consent (please delete as appropriate) to disclosure of such information. This information will not be divulged to any other party and is purely for research purposes and will not be used identify me in any way.

I understand that the interview tapes will be destroyed at the end of the research period. I am aware of the purpose of the research and the intended publication of the final thesis.

Signed:

Date:

Appendix 6 Staff Questions

JOB

Tell me three good things about your job

Tell me three not so good things about your job

For you, how and in what ways does working with MLS lifers differ from working with other categories of prisoner?

PRISON / IDENTITY/ MLS LIFERS

Tell me about the typical MLS lifer

How do you react to them?

How does the typical male MLS lifer make sense of his sentence?

How does he cope and adapt to imprisonment?

Tell me about how you experience the MLS lifer as both a man and a prisoner.

Tell me about the MLS lifer who has been recalled, who is he and how does he react/respond

How do risk assessments and notions of dangerousness feature in the life of the MLS lifer?

PREPARATION FOR RELEASE

Tell me about the transition for MLS lifers from closed to open conditions

Tell me about the transition for MLS lifers from open conditions into the community

CRIMINAL JUSTICE ISSUES

Tell me your views on the MLS

Describe to me the process of the lifer system

How do you think the increases in more life sentences being passed will affect the current lifer population and the work you do?

Appendix 7 -The Prisoners

Ben

Billy

Harry

Samuel

Joshua

Alfie

Daniel

Zachary (Zac)

Wilf

Noah

Leo

Henry

Archie

Oliver

Jack

Joseph

Isaac

Toby

Appendix 8 Prisoner Questions

Prison History:

1. How well was the process of being a lifer explained to you?
2. Tell me about your experience of prison throughout your sentence (*coping, adapting, adjusting at each point*))
3. Tell me how you have made sense of the life sentence throughout your prison career, what is it like in terms of the process you go through or have gone through
4. How do others view you, tell me what it is like to be a (MLS) lifer
5. Tell me about prison staff (*how do they treat you and respond to you*)
6. In what ways do you think you have changed over the course of your sentence?

Preparation for Release:

7. Tell me about your transition from closed to open conditions
8. Tell me about your transition from open conditions into the community
9. How prepared for release do you think you are, and what could have been done to improve on this?
10. What are your biggest concerns/anxieties for when you are released?

The MLS:

11. What is your understanding of what life will be like for you in the community? (*How would you like to be viewed in the community?*)
12. Tell me your views on the life sentence, (how would you sentence, deal with people who have committed an offence like what you have)

Impact
Institutionalisation

Appendix 10 Table depicting personal characteristics of prisoners:

Ethnicity¹⁶⁶	Age	Marital status	Children	Family contact	Siblings	Time spent in care
Ben White British	37	Single	3	Yes	Yes	Yes
Billy White English	52	Divorced	2	Yes	Yes	No
Harry White Welsh	45	Single	0	Yes	Yes	No
Samuel- White British	53	Single	0	No	No	Yes
Joshua White British	46	Single	2	No	Yes	Yes (education)
Alfie White British	41	single	0	No	Yes	Yes
Daniel White British	40	Single	0	Yes	Yes	No
Zachary White British	34	Single	2	Yes	Yes	Yes
Wilf White British	59	Divorced	2	No	No	No
Noah White British	35	Single	0	Yes	Yes	No
Leo White British	34	Single	0	Yes	No	No
Henry White British	53	Single	0	Yes	Yes	No
Archie White	60	Single	1	No	Yes	No

¹⁶⁶ The ethnicity of the MLS population has remained predominately white over the years. For example, the MLS population in 2008 consisted of 3321 persons defined as ‘white’ out of a total MLS population of 4395.

British						
Oliver White Scottish	40	Single	0	Yes	Yes	No
Jack White British	38	Single	0	Yes	Yes (deceased)	Yes
Joseph White British	51	Single	0	No	Yes	No
Isaac White Irish	61	Divorced	3	No	Yes	No
Toby White British	39	Single	2	Yes	Yes	Yes

Table depicting educational and work experiences of prisoners

Prisoner	Education Pre custody	Education In custody	Work Pre custody	Work post custody
Ben	No	A levels	Un-skilled	Any
Billy	No	City and Guilds A levels	Yes Skilled	Catering Skilled
Harry	No	City and Guilds	None	Any
Samuel	No	Key skills	None	Public Service
Joshua	No	Self Educating	Un-skilled	Care Taker
Alfie	No	A levels	None	Out Door Work
Daniel	Yes CSE's	City & Guilds, CLAIT IT	Manual	Any
Zachary	No	City & Guilds	Rail worker	Catering
Wilf	No	No	Manual	Caring
Noah	No	Computer	Service Engineer	IT
Leo	No	City & Guilds	Manual	Farming
Henry	No	No	Ware House	Any
Archie	Yes	No	Manual	Care taker
Oliver	Yes O levels	Yes Degree Level	Student Part time waiting	Self employ

Jack	Yes CSE's	Yes NVQ's	Livery	Any
Joseph	No	Yes	Un-skilled	Un- skilled
Isaac	No	Yes City & Guilds	Farming	Any
Toby	No	Yes City & Guilds NVQ'S/ IT	Building	Any

Appendix 11 – ROTL

Each MLS prisoner within HMP Shaw was subject to the timescales set out in table below before being eligible to apply for ROTL.

Table Showing length of time in open conditions prior to ROTL Source: Prison Service Order 6300 4.3.3

Length of time in open conditions before eligible to apply for types of activity and leave				
Time to next Parole Board Review from date of arrival in open conditions.	Supervised activities outside the prison boundary	Resettlement Day Release	Resettlement Overnight Release	Resettlement overnight leave for paid work and/or for 5 days per week
More than 12 months	2 months	6 months	9 months	12 months
Up to 12 months	1 month	4 months	6 months	8 months
Up to 9 months				
Up to 6 months	1 month	3 months	5 months	6 months
	2 weeks	1 month	3 months	4 months

There is no automatic entitlement to any ROTL and the timescales are only indicative of when a prisoner can apply. The timescale becomes irrelevant if the risk posed by the prisoner is deemed too great. PSO 6300 (4.3.5) states:

‘Good practice suggests that both the duration and frequency are gradually increased in line with the prisoner’s life sentence plan and personal development’

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